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FROM

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**ABRIDGMENT**  
**OF THE**  
**DEBATES OF CONGRESS,**  
**FROM 1789 TO 1856.**

**FROM GALES AND SEATON'S ANNALS OF CONGRESS; FROM THEIR  
REGISTER OF DEBATES; AND FROM THE OFFICIAL  
REPORTED DEBATES, BY JOHN C. RIVES.**

**BY**  
**THE AUTHOR OF THE THIRTY YEARS' VIEW.**

**VOL. X.**

**NEW YORK:**  
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**1859.**

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# TWENTIETH CONGRESS.—FIRST SESSION.

## PROCEEDINGS AND DEBATES

IN

## THE HOUSE OF REPRESENTATIVES.

CONTINUED FROM VOL. IX.

MONDAY, February 11, 1828.

### *Militia Courts Martial.*

The report of the Committee on Military Affairs, [made this day,] on the subject of the documents in this case, being under consideration—

Mr. HAMILTON offered the following resolution:

*Resolved*, That the report of the Committee on Military Affairs, made to this House, on certain documents communicated by the Department of War, touching the proceedings of a court martial which convened at Mobile on the 5th December, 1814, and a correspondence between the Secretary of War and Governor Blount, respecting certain drafts of the Militia of the State of Tennessee, be printed with said documents, which have been previously ordered to be printed by this House.

Mr. DRAYTON moved to amend the resolution, by adding these words:

“And that the documents heretofore ordered to be printed, shall, when printed, be appended to said report, in the order in which they have been arranged by the committee.”

Mr. HAMILTON accepted the amendment.

Mr. BURGESS said, that, by way of apology that the order of the House had not been complied with, it had been said that it was one of the high privileges of a committee of Congress, to say when and how documents are to be printed. He denied that. He denied that when the House had said certain papers are to be printed, a committee, or a member of a committee, may put them in their pockets, and prevent them from being printed. If such a doctrine were to prevail, a committee might put documents in their pockets and keep them there until the end of the session. The mode of printing had been indicated by the order of the House. This is not merely a conflict between the privileges of a committee and of the printer. What had

the printer to do with it beyond putting it into type? that which was before the House is chirography. Why then should it be stated that this is a conflict between the privileges of a committee and the printer? With all due deference, the House had a right to examine the documents at the same time as the committee. He knew not why the committee had claimed the privilege of giving their opinions, when they were not asked for. When documents were ordered to be printed, it was not the usual way to retain them from the clerk, so that he could have no opportunity—should not be able to send them to the printer—but they had been uniformly sent to the clerk, and from him to the printer. It was now perfectly clear that it was the object of the committee that the people should not have the documents without a glossary to accompany them. The Secretary of War had been precluded from giving any opinion. It was then the wish of the gentlemen that the facts should go forth to the people without any commentary. Now, the same gentlemen seem to fear lest the people should have the facts without a commentary. It is intended to insinuate that the people have so little knowledge that they would not be able to understand the documents if they were presented to them by themselves. He was astonished to hear such a doctrine asserted. He did not know with what kind of people the gentleman from South Carolina was acquainted; but those of the people with whom he was himself acquainted, he could assure the gentleman, want no glossary or commentary to serve as a guide to their understandings. This mode of accompanying the documents with a glossary might have a very different effect from keeping the people from committing errors of opinion.

He asked what friend there was of General Jackson who would come forward and say that



the naked truth shall not go forth until his friends had prepared a commentary to accompany it? He was astonished that any gentleman could advance the doctrine here, that papers must, of necessity, go to the world with a commentary and argument to each this fellow-citizens how to understand the record. He prayed that members of the House, who had been nearly a fortnight waiting for these papers to be printed, might have the privilege of having these documents before them. He admitted that the argument of the committee was ingenious—

The **SPEAKER** reminded the gentleman from Rhode Island, that it was not in order to discuss the merits of the report on a question to print.

Mr. **BURGESS** said he was not about to go into the merits: He would say the report had no merits. He wished to have the testimony without the commentary; and he prayed that the order already made by the House should be complied with.

The **SPEAKER** stated, that when the order of the House was made to refer the documents and print them, he had submitted the papers to the chairman of the committee, a course which he thought perfectly proper.

Mr. **DRAYTON** referred to the course pursued at the last session, as to the documents connected with the dispute between the U. States and the State of Georgia. A motion was then made, by the chairman of the committee, that all the documents should be appended to the report of the committee, and they were so appended. The committee of which he was a member, had, in the course of their investigation, found it necessary to examine a mass of documents, some of which were only to be obtained from the Indian Department, and all these were appended to their report. There was nothing novel, therefore, in this proposition.

Mr. **BUCHANAN** said: I rise to express a sincere hope that the House may promptly decide this question. I fear, from the course which the debate has taken, that we may again find ourselves involved in a political contest. I call upon those gentlemen upon this floor, if there be any such, with whom my opinion has any influence, to avoid making this a party question. The House have already wasted sufficient time upon questions of that character. We have already withdrawn ourselves long enough from the public business of the nation, for the purpose of attending to the politics of the day.

What is the true, the intrinsic nature of the question now before the House? It is simply this: Shall the documents be printed with, or without, the report of the committee? What possible difficulty can arise in answering this question? No gentleman has objected to printing the report. Whether the documents shall be attached to the report or not, both will be read by the people of the United States. Then why detach them from each other? Let them go together. The question, however, is one of so trifling a character, that I should vote in the

negative, rather than be instrumental in producing another protracted party debate.

The Committee on Military Affairs have been, in my opinion, unjustly censured, because they took possession of the documents before they were printed. But was not the order of the House to refer, equally powerful with the order to print? The committee had at least as much right to the possession of these documents, as the printer. One gentleman may have wished that the printing might be the first step, while another desired that the reference might have the precedence. How, then, are the committee censurable? If the printing had been delayed too long, the House could and would have exercised a control over their committee.

If the House had wished the documents to be printed, without the commentary of the committee, they ought to have passed an order for printing simply. But at the same time that we ordered the printing, we sent the documents to the committee. For what purpose? Certainly that we might obtain their report: and now the only question is, whether the documents, and the report upon them, shall be printed together, or separately? I shall vote that the commentary shall accompany the text; but yet I think it a matter of very little importance.

The only change which the committee have made in the order of the letters, is to place them in the order of their dates, and make the answer follow the letter to which it is a reply. No gentleman can wish to see the answer placed before the letter which gave birth to it. Mr. B. again expressed a hope that this might not become a party question, and produce a party debate.

Mr. **TAYLOR**, in reply to the question which had been asked, as to what difference it made how the documents were printed, said that there were two distinct series of printing: one of which embraces Executive documents, and the other Reports of Committees. At a future day, when this information should be sought for, the Executive documents would naturally be looked to. Should it be transferred to Reports of Committees, it would not be in its natural place. It does not now come before us as from the Executive Departments at all. The House had ordered that it should be printed as an Executive document, and as such it ought to be printed. Precedents had been referred to. One gentleman had referred to the case of the Vice President. In that case, the documents were matters collected as evidence, and formed a part of the report. This is a very different matter. If the Department has presented these documents in a manner to impose on the people, the committee might cast a censure on the Department; but the House owes it to the Department to print the information as it has been received. He thought it high time that we should proceed with the public business. He had come to the House this day in that ex-

FEBRUARY, 1828.]

*Navy Appropriations and Expenses.*

[H. OF R.]

petition. Unless we violate all the rules and practice of the House, the order would be executed as it had been previously directed, without any change in the manner of doing it.

Mr. WICKLIFFE called for the previous question: which motion prevailed.

The question being then—"Shall the main question be now put?" It was decided in the affirmative—ayes 105, noes 75.

The question was then taken, on the passage of the resolution, and agreed to—ayes 108, noes 69.

TUESDAY, February 12.

*Navy Appropriations and Expenses.*

On motion of Mr. McDUFFIE, the House went into Committee of the Whole on the state of the Union, Mr. CONDIOT in the chair, and took up the bill making appropriations for the Naval service for the year 1828. The bill was read through, and then taken up by sections; and the clause of appropriation for the pay and subsistence being under consideration—

Mr. HOFFMAN, Chairman of the Committee of Naval Affairs, requested Mr. McDUFFIE, Chairman of the Committee of Ways and Means, who had reported the bill, to state to the House what was the increase in the number of officers in the estimates of the present year, over the number of officers in the estimates of last year.

Mr. McDUFFIE replied, that he had imperfectly understood the gentleman from New York, but would state, in reply to what he had understood to be his question, that the increase in amount for this item was about \$20,000; which difference grew out of the increased number of officers.

Mr. HOFFMAN then went into a lengthy detailed statement, in which he compared the estimates of this year and the last, as they applied to each grade of officers. The number of Captains, in 1827, was 27; for this year, 32. Those in commission in 1827, were 8; those for this year, 9. Captains waiting orders last year, were 9; this year, 13. Lieutenants waiting orders last year, were 83; those waiting orders this year, 111. Surgeons, two more this year than last—12 waiting for orders. Surgeons' mates were increased from 28 to 32; waiting orders last year, none; this year, 11. Purser increased from 21 to 23—4 waiting orders last year; 8 this year. Midshipmen waiting orders last year, 20; this year, 35. He summed up the increase for the present year as follows: 5 Captains, 1 Commandant, 55 Lieutenants, 17 Surgeons, 14 Surgeons' mates, 6 Purser, 3 Chaplains, and 156 Midshipmen. After stating the reasons given by the Secretary for this increase, Mr. H. insisted, that, if any alterations were to be introduced in the management of the Navy, those changes could be more easily effected if the number of officers was few than many. The only limit to the number of appointments was in the re-

stricting the appropriations for their pay and subsistence. He expressed his willingness to increase the number of officers so far as might be necessary for vessels actually in commission, but was opposed to increasing the number of those waiting for orders. The Navy now cost about one-seventh of the whole expenditure of the Government. That arm of the Government was at present highly popular; but would not continue to be so if it were suffered to grow too expensive. Mr. H. concluded by stating that he was unable to designate what particular sum should be substituted for that now in the bill, as he had not received the necessary data for that purpose from the Navy Department.

Mr. TAYLOR congratulated the House that this subject had received the attention of the Naval Committee. He deprecated the omission, on the part of Congress, heretofore, to fix the number of naval officers, as it had done that of the officers of the Army. He thought it highly improper that their number should be left discretionary with the Executive branch of the Government, and pressed upon the Naval Committee the propriety of bringing in a bill fixing the Navy Peace Establishment.

Mr. McDUFFIE sent to the Clerk's table a letter from the Secretary of the Navy, explaining in detail the estimates from that Department for the present year.

Mr. WILLIAMS inquired of Mr. HOFFMAN, whether he considered the total number of officers, proposed to be employed, as too great in proportion to the services proposed to be performed, and whether the whole number was any greater than was requisite for that service which was authorized by law.

Mr. HOFFMAN replied, that the number would be far too small if all the vessels in the Navy were actually in commission, but not more than half our vessels were in actual service; and, in reply to the other question, he said, that if the estimates of last year were to be taken as a standard of judgment, the number of officers proposed for the present year was too great in proportion. The estimate contemplated an increase in the service, which Mr. H. did not think necessary.

After some explanations from Mr. TAYLOR, Mr. HOFFMAN continued his speech, and opposed the expediency of fixing a Peace Establishment, thinking it better that the number of officers should be regulated, from year to year, according to the contingencies of the service. He was opposed to every thing like a sinecure office. He would pay the officers liberally when in actual service; but not retain large numbers of them, upon salary, waiting orders.

Mr. STORRS (who was last year Chairman of the Naval Committee) went into an explanation of the causes which had led to an increase in the extent and expenses of the Navy. He insisted that the expenditure was economical, having been more than made up by the value of our commerce which it had protected. The

increase of the officers ought to keep pace with that of the Navy itself. As to a temporary employment of them, to cease as soon as their ships ceased to be in commission, he denounced it as utterly destructive of our naval interests and character. He pronounced the present pay of the officers to be inadequate to the stations they respectively occupied. He denied that there were any sinecures in the Navy, and insisted that, if the number of officers was at any time too great, the fault did not lie with the Department, but with Congress, who had frequently been solicited by the Department to fix the number by law. Such an arrangement was earnestly wished for by the Secretary of the Navy; but he had hitherto asked it in vain. The increase of the expense of the Navy was only in proportion to the increased extension of the commerce which it had to protect.

Mr. DWIGHT replied at considerable length to the remarks of Mr. HOFFMAN, the general error of whose statement lay in this: that he had compared the estimates of this year with the estimates of the last year; whereas, he ought to have compared the estimates of this year, with the expenses of the preceding year, on which they were founded. Had he done this, he would have found, that, instead of being greater, they were about 150,000 dollars less than those of the preceding year. Mr. D. did not agree with Mr. TAYLOR as to the necessity of restricting the Executive discretion, in the appointment of officers. He recapitulated the increasing appropriations which had been made, and the multiplied items of expenditure which had arisen from the building of ten sloops of war—the erection of dry docks at New York and Boston—the depot at Pensacola, &c., and insisted that the number of officers was not greater than these new and various branches of the service required.

Mr. McDUFFIE stated the facts, from which the increased estimates of the present year had arisen, and among them, dwelt especially upon the increased number of Lieutenants and Midshipmen. He gave no opinion as to the necessity or expediency of this increase; he denied that the number of officers employed was to be regulated by the number of vessels in commission. Their number was five times as great as was needed for a state of peace, if that state was always to continue. The necessity for their employment arose from the necessity of being prepared for war. He would not say that it was inexpedient, in this point of view, to increase the number of officers. He was incompetent to judge of that point, but should be unwilling to refuse, without further light, the appropriation asked for. Viewing the Naval Establishment in peace, as in fact a preparation for war, he thought the number of officers ought to bear some general relation to the number of ships, and that, if the Navy itself was increased, some increase of officers was unavoidable. If the Chairman of the Naval

Committee would suggest some mode of restraining the number of Lieutenants and Midshipmen, he would unite with him in such a measure.

Mr. WHIPPLE insisted, that, as this whole subject had been placed within the discretion of the Navy Department, that Department should either be permitted to arrange the number of officers as it thought proper; or be accused of malfeasance in office. He presumed the head of that Department had sufficient ability to exercise a sound discretion. Mr. W. insisted upon the better information possessed by the Department, as to the necessity of changing the arrangement of different detachments of the Navy than existed elsewhere, and such changes are necessarily expensive. Let the House either trust to the discretion of the Department, or regulate the matter themselves by law. He had heard no good reason advanced to show that the discretion reposed in the Department had been improperly exercised.

Mr. BARNEY, adverting to the situation of Mr. HOFFMAN, as Chairman of the Naval Committee, reprobated the sentiments expressed from so influential a quarter, in regard to paying the officers only while in actual service, as tending to degrade the standing of those gentlemen, and drive them from the public employment, the effect of which would be to ruin the service, and leave the Navy of the United States bottom upwards. Mr. B. denied that the number of officers was too great even for a permanent Peace Establishment. There were no supernumeraries—no sinecures. The increase of Midshipmen, instead of being upwards of ninety, as by the estimates it would appear to be, was, in fact, but about fifty. He concluded by insisting that the extent of the Navy was only in proportion to the commerce of the country; that the Navy was, in effect, the right arm of the nation.

Mr. SERGEANT stated, as a reason why the number of vessels in commission would require to be increased, that information had just been received from the southward, that great danger was apprehended from the rise of piracy in the Gulf of Mexico. Applications on that subject had this day been received at the Navy Department, from the Insurance Companies of Philadelphia and New York, and others would no doubt follow, from Boston and elsewhere, urging the propriety of stationing an additional force in the Caribbean sea, in consequence of the proclamation of Commodore Porter, inviting privateers into the Mexican service. While this increase of our naval force was required in that quarter, the service in the Pacific, on the coast of Brazil, and above all, in the Mediterranean, would not allow of any diminution. Mr. S. insisted, that the power of appointing officers was properly vested, and that, as long as the House could check it by the amount of appropriations, there was no need of regulating the number of officers by legislative enactment. As to a Peace Establishment, the Navy

FEBRUARY, 1828.]

*Cadets at West Point.*

[H. OF R.]

knew no such thing as peace. From its creation to this day, it had been in perpetual service. Our commerce had required incessant protection, and was likely now to require still more in the Gulf of Mexico, and in the Mediterranean. If a Peace Establishment was fixed at all, it must be fixed at a maximum of what was likely to be required, which would be a very extravagant arrangement. The ships and men of a Navy might be changed, but its officers grew up from childhood in the service, and could only be matured by long practice and experience. It was now the settled policy of this nation, that its Navy was to be gradually increased; and, if so, the number of officers ought to increase with it. Congress had fixed the number and size of its ships, and therein had done all that was required of them, towards fixing the number of officers. Should the service be cut too short of officers, it might chance to fail on the very point most exposed, and a loss be thereby incurred far greater than all the petty saving which might be produced by curtailing the appropriation.

Mr. HOFFMAN now spoke in reply. The Naval Register assigned eight vessels to the West India station. These were more than sufficient to guard against any dangers in that quarter. He thought the past history of our Navy was sufficient to show that no naval nursing and schooling from infancy, was required to form able and accomplished officers. The merchant service supplied such training; and an officer of spirit would rather return to that service, when out of active employ in the Navy, than receive a salary which he did not earn. He opposed the necessity of fixing a permanent Peace Establishment to the extent suggested. He professed his zeal for maintaining this arm of the national defence, on which he bestowed very liberal commendations, but opposed the position that the number of officers was to go on continually increasing. Peace might last a quarter of a century, and yet, at this rate, the expense of the Navy will be so enormously increased, that it might at length constitute one-half of the expense of the Government.

Mr. SHERMAN said, in explanation: It was true, that the Naval Register gave eight vessels to the West India station, but of these, only three were in that service at this time, the *Erie*, the *Grampus*, and the *Natchez*; the others being in port undergoing repairs.

On motion of Mr. LITTLE, the committee rose, reported, and obtained leave to sit again.

WEDNESDAY, February 18.

*Navy Appropriations.*

Mr. HOFFMAN moved the following:

"And be it further enacted, That there be, and hereby is, appropriated, for the purchase of such lands as the President of the United States may think necessary and proper, to provide live oak, and other timber, for the use of the Navy of the United States, a sum not exceeding ten thousand dollars,

to be paid out of the moneys appropriated for the gradual increase of the Navy of the United States, by the first section of the act, entitled 'An act for the gradual improvement of the Navy of the United States,' approved 3d March, 1827."

Mr. HOFFMAN stated, in explanation, that the Secretary of the Navy, endeavoring to fulfil a law passed at the last session, for reserving certain portions of the public land on which timber fit for shipbuilding was found, had experienced considerable difficulty from the intervention of private claims, which, though small in amount, must be satisfied before the law could be carried into effect. This was especially the case in Florida. It was with a view to the extinction of the private titles that he had moved the amendment.

The question being put, it was adopted without opposition.

Mr. HOFFMAN then moved to fill the blank in the section which provides for the pay and subsistence of officers, with \$1,100,081 75, instead of \$1,176,312, which had been proposed by the Committee of Ways and Means, in conformity with the estimates from the Navy Department.

Mr. HOFFMAN did not wish to interfere with the officers attached to vessels in actual service, nor with those that would be required for the increase of the service, which had been proposed by the Secretary of the Navy. He wished only to prevent the increase of the number of officers waiting orders. The increase of these persons proposed by the Department included 4 Captains, 7 Masters Commandant, 28 Lieutenants, 12 Surgeons, 11 Surgeons' mates, 4 Purser, and 65 Midshipmen; the amount of whose united pay and subsistence would be \$76,230 25. This sum he wished cut off from the appropriation.

The question being put first upon the larger sum moved by the Committee of Ways and Means, it was carried in the affirmative—ayes 104, noes 58.

The committee then rose and reported the bill.

FRIDAY, February 15.

*Cadets at West Point.*

The House proceeded to the consideration of the following resolution, offered by Mr. WHEAT, on the 12th instant.

"Resolved, That the Secretary of War be directed to furnish this House with a list of the Cadets now at West Point; their names; the States, and congressional districts, from whence they were sent; and the dates when they were received. Also, a statement showing the present existing rule of the Department as practised relative to the manner of filling up vacancies," &c.

Mr. WHIPPLE had no other objection to the resolution, except that it was needless, inasmuch as the information was already before the House. The rules of the institution had been published, and the law referred to might be found in the documents.

Mr. HAYNES said he was not in the habit of interfering with calls from the Departments, but he had himself corresponded with the Secretary of War on this subject, and all the information that was sought by the resolution, could easily be obtained by a personal application to that officer.

Mr. WEEMS said, that he had made such application, but without success. In the meanwhile an impression had gone abroad that Executive patronage grew out of the management of that institution. This was denied by some gentlemen, who asserted that each Congressional District was entitled to have one cadet in that school, and that this cadet might be nominated by the Representative from that District. He wanted that the people should know how this matter stood, as well as every thing else about the Academy—its advantages and its disadvantages.

Mr. MILLER said, that the only objection he had heard to the call, was, that all the information it requested, was usually given by the Secretary of War, when publishing the names of those who were admitted. Gentlemen who supposed this, were in error. That statement did not designate the Congressional Districts from which the cadets came. This was very desirable to be obtained.

Mr. VANCE said, that it was impossible that the Secretary should give this information, as no register was kept in the Department of the particular Districts from which the cadets came. The register designated merely the States. The usual course, however, was to appoint one cadet from each District. But it was a rule universally observed, that, when one of the candidates was the son of a revolutionary officer in low circumstances, he was preferred. In ninety-nine cases out of a hundred, the choice was left to the Representative from the District, unless his State has already received more than its proportion. Mr. V. said that he possessed a register of the cadets, which gave their rank and standing in the institution, the State from which they came, and all other facts respecting them that needed to be inquired into. This book might be consulted by any gentleman who wished to see it. He had, however, no objection to the call.

Mr. McCOR thought the gentleman from Ohio was in error in supposing that there were no data in the office stating the District from which the cadet was received. The main object to him was to know how the Secretary filled up the vacancies which every year occurred in the institution: for it was well known that a considerable proportion of the students admitted, either from want of capacity or inclination to continue their course, left the institution.

Mr. RAMSAY said, that some gentlemen appeared to be in possession of information which he was not so fortunate as to possess, and which his constituents, as well as himself, were desirous to obtain. If the gentleman from Ohio had

a book containing all the particulars he had stated, Mr. R.'s constituents had not.

Here the hour allotted to resolutions expired; and the debate was arrested.

*Military Appropriations.—West Point and its Visitors.*

Mr. GILMER moved to strike out the item "for erecting new buildings" at West Point. He thought the number of cadets ought to be diminished rather than increased, and, holding that opinion, was opposed to extending the establishment by the erection of any new buildings.

The amendment of Mr. GILMER was negatived, only thirty-six members rising in the affirmative.

Mr. McDUFFIE moved to insert a separate item of \$1,500, to defray the expenses of the Board of Visitors annually attending at the Academy.

Mr. KREMER thought the Board of Visitors entirely useless. Most of them were men destitute of all military talent, and when they got there, a report was prepared for them, and all they had to do was to sign it. The Government might as well send so many wooden men.

Mr. McDUFFIE stated the practice of the War Department on this subject. The Committee of Ways and Means had inserted but half the sum contained in the estimates from the Department. Many members of Congress visited the institution without compensation, but there were many scientific men who were very fit for this duty, whose circumstances would not admit of this.

Mr. RAMSAY asked whether the travelling expenses of the Visitors were paid.

Mr. McDUFFIE replied, that there was no fixed rule. Where the Visitors could not afford to pay their own expenses, they were defrayed out of this appropriation, but in many cases they were not paid for.

Mr. BARNY stated the facts as they occurred when he visited the institution. The Visitors were allowed the actual expenses of their journey. Such of them as were members of Congress were not allowed their rates of mileage as members. To refuse to pay the actual travelling expenses of such Visitors as were in slender circumstances, would exclude a very valuable class of citizens, particularly the professors in most of our colleges, who could not afford to come from a great distance at their own charges.

Mr. WICKLIFFE remarked that it was possible the member from Pennsylvania, (Mr. KREMER,) (and not Mr. BARNY, from Maryland, as reported,) was mistaken in the opinion he had expressed, that this Board of Visitors was totally useless. Without intending to express any opinion himself upon the valuable results of the Boards, which have heretofore inspected and reported upon the nature and character of the course of instruction which was pursued in

FEBRUARY, 1893.]

*Military Appropriations—West Point and its Visitors.*

[H. OF R.]

the Military Academy, he would content himself by a single reference to the report of the late Board, laid upon our tables at the present session. If it be not important in reference to the course of military instruction of our officers, its importance in teaching them the use of our language in a rhetorical flourish, may not be questioned.

[Here Mr. WICKLIFFE read from the report the following :

"Engineering, in its two departments, particularly in its civil features, is of importance to every country, and to none more than to our own. The importance of scientific education to the engineer is evident : for, to material substances, his thoughts and meditations must be directed. Hence, it is of importance to become familiar with the laws prescribed by nature for their action. He must grapple with his agents, and foresee their effects, calculate their energies, and become, as it were, the dictator of their actions. Nature must be forced into a bond of alliance with his views. He must interrogate her on her modes of action, study the laws by which she governs, enter into the recesses of her hidden processes, arrest her in the act of operation, and enter on his own labors with possession of her secrets.]"

Sir, who will say this sentence alone is not worth the sum proposed, with which to fill the blank ?

Mr. KREMER declared that his views were in no way altered. He believed that the reports were prepared for the Visitors beforehand, and all they had to do was to sign ; and appealed to every Visitor to say if such was not the case.

Mr. VANCE repelled the insinuation with much indignation. It was false in point of fact. The Board was usually constituted partly of scientific and partly of practical men. That portion of them who were possessed of scientific and literary attainments, were, of course, selected to draw up the report. Mr. V. said he had been prepared to expect that the report of the last year would receive the sarcasm and the taunts of certain men on this floor. Though he had been appointed to preside on that occasion, he believed he might say, and the House would bear him out in the assertion, that he was as unpretending as any member of the House. Gentlemen knew how he had attained what education he did possess, and he was as sensible as they could be, that it would have been a burlesque for him to pretend to draw up that report. But it was a foul calumny, to say that the report was prepared and drawn up for the committee.

[Mr. KREMER explained by saying, that he only meant that the report was not drawn up by the chairman.]

Mr. VANCE resumed. As it had been customary always to put upon that Board one of the Military Committee of this House, he had last year been appointed to that duty, and this had drawn out the taunts of a certain set of men in this House. But when an individual,

who was now Governor of Tennessee, and whose literary and scientific attainments did not greatly exceed his own, had presided in that Board and signed its report, all was suffered to pass very quietly. The gentleman now at the head of the Military Committee (Mr. HAMILTON) had likewise once presided, but even he had not drawn up the report which he signed. But no sooner did he (Mr. V.) fill that place, than he was sneeringly reflected upon, as if he had wished to palm himself upon the public as the author of that report. He was above any such meanness.

Mr. JENKINS said he was far from wishing to derogate from the merits of the gentleman from Ohio, (Mr. VANCE.) He viewed him as belonging to that class of practical men, among whom he had understood him as placing himself. Such men, in company with others of a literary and scientific character, ought to be appointed. But this had not always been the case. He believed some had been appointed to this duty, who never could demonstrate a proposition in Euclid. He should vote for such an appropriation with much reluctance. But he would not withhold the public money from such uses as would really give the public an interest in the character of this institution.

Mr. BUCK went into a history of the West Point Academy, from its earliest origin, when the corps of Artillerists and Engineers were first separated. The officers of the latter corps then constituted the Academy, and there were no cadets, and no salaried professors. He then traced the gradual introduction of cadets, first two in a company, doing duty in the ranks, increasing from 60, till, in 1809, they amounted to 80 ; and, at the close of the late war, their number was augmented to 250. The institution had then been entirely reorganized. The course of instruction altered and enlarged, and, since that time, a Board of Visitors appointed. He admitted the high character of the persons usually selected to compose this Board, but could see no useful result from their appointment. It entailed an unnecessary expense upon the nation, and he therefore resisted the present appropriation.

Mr. MALLARY took the opposite side, insisting upon the advantages of this visitation, as tending to preserve the school from those abuses to which every human institution was more or less liable. It guarded the rights of poor and friendless students, and preserved them from oppression. It greatly stimulated the ambition of the young men to excel in their studies. It spread a knowledge of their respective standing throughout the Union, and gave the public mind a stronger interest in the welfare of this valuable institution. Those who now conducted the school were the very last whom he would suspect of any thing like injustice or mal-practice. But, it was wrong, in itself, to leave any great public seminary without supervision and control. Besides the moral effect of such a visitation, the Board ex-

exercised an inspection over the pecuniary expenditures of the institution, as well as over its general police and the comforts and accommodations of the students.

Mr. PEARCE expressed his regret at the course of the debate, and especial surprise at the source from which some of the objections had proceeded. The gentleman who objected to the course of visitation, (Mr. BUCK,) had, if he mistook not, been once himself an alumnus of that institution, but had not graduated there. Mr. P. traced the institution of the military school from its conception by Mr. Jefferson, through the succeeding Administrations, until it received the assiduous and fostering care of the gentleman who is now Vice President of the United States, on whom he passed some very handsome compliments for his zeal in its behalf. He dwelt on the necessity and advantage of a system of visitation, and taking it for granted that a Board ought to be appointed annually for that purpose, he insisted on the impropriety of taking them from a single portion of the United States, in the immediate neighborhood of the school, but urged the propriety of collecting them from every part of the United States. If this principle was adopted, he thought that the sum of \$3,000, as reported from the estimates in the War Department, would be barely sufficient to pay their travelling expenses. He contradicted the statement of Mr. KREMER, that a report was prepared for the Board to sign. The Visitors were divided into classes. A part of the report assigned to each class; their several productions afterwards brought together, and, by some leading member of the Board, selected for the purpose, reduced into a general report. Such had been the process when he attended. The report was drafted by the Professor of Modern Languages in Cambridge University. Mr. P. concluded by moving to fill the blank with 8,000 dollars.

Mr. DWIGHT rose to correct the mistaken views of his friend from Vermont, (Mr. BUCK.) He denied that the Seminary had grown up by mere military legislation, and referred to the several acts of Congress by which it had been founded, and from time to time enlarged. The present expenditure for the travelling expenses of the Board of Visitors was a mere regulation of the Department, and did not rest on any law; and, as the appointment to a seat in the Board of Visitors was an honorary appointment, and, as such, highly valued, he thought it would be sufficient if a sum was provided to cover the expenses of gentlemen while in actual attendance at the institution.

In reply to some remarks of Mr. WREMS, Mr. BUCK repeated, and explained some of his former statements. In reply to the remarks of Mr. PEARCE, who, he said, seemed to have recurred with some interest to a portion of his biography, he stated, that, after he had left college, he had resided for 16 months at West Point, during which time, he had applied the

knowledge he had acquired in his collegiate course to the military studies at that school. It was true, he did not graduate there, because he had received a commission in the infantry, in which corps he had served to the close of the late war, when he retired to private life.

Mr. WREMS professed himself satisfied with this explanation, and wished he could say the same in relation to the speech of Mr. MALLARY, who seemed to think that the benefits of the Military School were bestowed chiefly upon indigent young men of genius. If he thought that, he would willingly vote three times as much as was now asked.

Mr. HALL said, as it seemed to be the understanding of the gentleman, that every one on the floor was to occupy his share of the time of the House, he should avail himself of the same privilege. He objected to the Board of Visitors, on account of the pride, pomp, and circumstance, which attended their visitations. He was opposed to the school as extending the Executive patronage—educating the children of gentlemen in both branches of Congress—sending into the States the mere creatures of the General Government, who could not sympathize with State rights, nor follow leaders appointed by State authority—leaving too much to Executive discretion—excluding poor and meritorious students—giving a preference to the aristocracy of the country—usurping to itself the patronage of the Government, in preference to institutions not of a military character; and finally, as endangering the liberty of the country, by aiding the cause of consolidation.

Mr. McDUFFIE, declaring it to be his opinion that nine-tenths of the members of this House were in favor of the Academy, conjured its friends not to prolong the debate by entering into its defence.

Mr. BURGESS made a short speech, going principally to repel the charge that poor students were excluded. He stated several instances to the contrary, and argued to show, that, unless the children of the rich were paid the same as others, a degrading line of distinction would be introduced in the school, more injurious to the poor students than any other feature in its management. He thought the travelling expenses of the Visitors ought to be paid—otherwise, the inhabitants of distant States would not be put on the same footing with those in the vicinity of the institution—gentlemen could go with perfect ease and comfort from Rhode Island to West Point, for \$5. But what would be the expense of gentlemen attending from New Orleans? If the visitation should be abolished, the finest stimulus would be abolished that ever was applied to youthful ambition.

The cry for the question was now loud from every part of the House.

The question was taken on filling the blank with \$3,000, as proposed by Mr. PEARCE, and decided in the negative—ayes 46, noes 107.

FEBRUARY, 1838.]

*Military Appropriations—West Point and its Visitors.*

[H. OF R.]

The question was taken on filling the blank with \$1,500, as moved by Mr. McDUFFIE, and decided in the affirmative, ayes 97.

Mr. INGHAM moved an amendment, going to confine the expenditure of this sum to the expenses of the Visitors while in actual attendance at West Point; but before any question was taken on this amendment, on motion of Mr. BASSETT, the committee rose.

MONDAY, February 18.

*Military Appropriations—West Point and its Visitors.*

On motion of Mr. McDUFFIE, the House went into Committee of the Whole on the state of the Union, Mr. TAYLOR, of New York, in the chair.

The consideration of the bill making appropriations for the military service was resumed; and the question being on the amendment moved by Mr. INGHAM, which went to the appropriation of \$1,500 for the expenses of the Board of Visitors of the Military Academy at West Point, and to their subsistence while in actual attendance:

Mr. INGHAM briefly explained the amendment. There were but two parts of the expenses of these Visitors, viz: their travelling expenses while coming and returning to and from the Academy, and the expense of their subsistence while there. It had been settled, as he understood, that this money was not to be applied to their travelling expenses. Of course, it must be for their subsistence while in attendance at the school.

Mr. STRONG opposed the amendment, as he believed that their travelling expenses ought to be paid as well as their expenses while at the school.

Mr. INGHAM replied, that the Committee of Ways and Means had stricken out one-half the sum, estimated by the Department, as sufficient to cover the whole expense of travelling and subsistence. This had been done on the ground, as he understood it, that the travelling expenses were not to be paid. If \$1,500 were sufficient to pay the whole, the Department must have made a great mistake in estimating them at \$3,000.

Mr. EVERETT was opposed to the amendment. He could see no reason why the travelling expenses of these Visitors ought not to be defrayed. He had himself once had the honor of serving on that Board, and had never been engaged in a more arduous service. The Visitors were hard at work from morning till evening, and that at a season when severe application was the most unwelcome. The duty involved a great sacrifice of time as well as of labor, and he could not conceive why the Government should ask of a citizen to spend three weeks of his time at West Point, for no public advantage, but merely for the public good, and then, in addition, call on him to pay his own expenses while thus going on a public errand.

Be the sum great or small, which is requisite to defray this charge, he would vote it with cheerfulness. Of all the apparatus in that valuable institution, there was none of greater importance to its success, than this attendance of the Board of Visitors. They did not, perhaps, impart any great light to the members of the institution; but this sort of supervision was all-important to its welfare, and constituted, indeed, one great advantage which distinguished that school from others. The want of such a Board of Visitors constituted the great deficiency in most of our institutions for education. There was little temptation for gentlemen to go there. The service was attended with much fatigue, and no very great honor or distinction; and why private individuals should be asked by the Government, or even by the people, to do their business for nothing, he did not perceive. He put it to the candor of gentlemen to say, whether such a requirement was reasonable.

Mr. WHITZ said, some remarks had been made on Friday, in the debate on the appropriation for a Board of Visitors to attend the examination at the Military Academy, which required some notice from him, as he had once had the honor to be there in that capacity. It had been broadly asserted that this Board of Visitors was created by the Secretary of War, very lately, without authority of law, or precedent. Such was not the fact. The Rules and Articles of War, enacted by Congress, for the government of the Army and Military establishment of the country, in all its branches, conferred on the Secretary of War the power to make regulations for the government of the Military Academy at West Point, and the Secretary under the last Administration made a judicious system of rules for that object, and, among others, the one that he would read. [Here Mr. W. read an article of the regulations for the government of the Military Academy, making it the duty of the Secretary of War to appoint Visitors, annually, to attend the examination, and prescribing their duties, &c.] It followed, necessarily, that this was a regulation made in pursuance of an authority given by law, and in pursuance of its provisions, which regulation had been printed, laid before Congress, and sanctioned from year to year until this time; and it was due to the present Secretary to say, he was only acting upon a system proposed by his predecessor, Mr. Calhoun, and, so far, sanctioned by Congress. There was, therefore, no ground for the assertions, inconsiderately made, that this was an illegal exercise of power. Mr. W. said he would make one other remark. At the time he was a member of that Board, its business was divided among its members, in committees, who examined the various departments, without being at all influenced by the Academic Staff; and, after a thorough examination, each committee reported, which report was incorporated in a general one, and the special report was also, in



some instances, sent. On the occasion in which he was Chairman of the Committee on Civil Economy, that report, made by himself, was sent; and if any one said, or insinuated, that the special or general report on that occasion was written by, or in consultation with, the Academic branch, it was entirely without foundation. Mr. W. said he did not like to engage in any debate not immediately connected with the interests of Florida, but this much he considered due to the Secretary of War, and to himself.

Mr. HAMILTON said, that he rose, more for the purpose of expressing the reason why he should vote for the smaller sum reported by the committee, which he believed was \$1,500, in preference to the larger sum, which had been asked by the Department. He would take occasion to say, that he was altogether opposed to the amendment immediately under consideration, which restricted the expenditure of the appropriation exclusively to the subsistence of the Board of Visitors at West Point, without making any allowance for their travelling expenses. He fully concurred with his honorable friend from Massachusetts, (Mr. EVERETT,) with whom he had the gratification of serving on the Board of Visitors, three years ago, that those who attended at West Point, in this capacity, were fully entitled to their travelling expenses, and he believed that not one cent more was ever received. He admitted that \$1,500 would not pay the travelling expenses and the subsistence, while at the Point, of so large a Board as had been usually convened. It would pay all the expenses of a Board, consisting of from six to nine persons, which he (Mr. H.) thought sufficiently large; indeed he had intended moving a resolution, for the Committee on Military Affairs to report a definite plan for the organization of this Board, with some specification of their duties, and an enumeration of such expenses as should be allowed for travelling and subsistence, as well as a proviso limiting their number. The Board itself, he considered of indispensable value; visitorial bodies, of an analogous character, were considered essentially necessary in all learned institutions, and he believed, in the very foundation of many on the other side of the water, provision was made for them, and that they practically existed in almost all the seminaries in our own country. There could not be conceived an institution, where an examination, at stated periods, of its actual condition, and its means of requiting the public bounty, by meeting the public expectations in its results, than that of West Point. The Superintendent and Faculty have not only the most critical duties, literary, scientific, and professional, to discharge, but they have confided to their care the moral culture and the formation of the character, of an interesting portion of the youth of our country. It is surely of vast importance, that the manner in which these offices are discharged to the country

should be vouched through respectable and responsible organs; and he thought that the testimony thus procured, not only in its influence on the institution, but as a satisfaction to the country, was certainly worth securing, if it could be accomplished at so trifling a cost as \$1,500. He regretted the course the debate had taken. When the House was in Committee of the Whole on Friday last, and had this item under consideration, it was certainly a matter of small criticism, indeed, for them to be discussing, who did and who did not write the reports; whether the gentleman from Ohio (Mr. VANCE) wrote the report prefixed to his name, was very unimportant, as he (Mr. H.) was certain of the fact, that this gentleman had discharged his duties in an honorable, faithful, and intelligent manner, of which he required no other assurance, than what he knew of that gentleman as his colleague, on the committee to which they both belonged. It was not necessary that every member of this Board should possess high scientific acquirements; it was sufficient that some of them should possess these qualifications, and that others, to sound practical sense, should add an acquaintance with military details and the business of life: and that all should furnish, in the integrity of their own characters, a guarantee for the fidelity of their report. The gentleman from Rhode Island (Mr. PEARCE) has made it a matter of grave criticism, whether he (Mr. H.) actually wrote a report, as President of the Board of Visitors, to which his (Mr. H.'s) name is appended; and all the credit of this document, if any belongs to it, he has imputed to the gentleman from Massachusetts, (Mr. EVERETT,) whose services on the Board were undoubtedly of the most interesting and valuable character. This conjecture of the gentleman from Rhode Island he did not impute to a notion, that, he believed, nevertheless, was common in the part of the country from which he came, that nobody could write, out of New England; but, since it was made a matter of serious inquisition, he would tell, to the best of his knowledge and belief, the history of the progress and ultimate formation of this report. After the Board had completed its examination, it appointed sub-committees, for the purpose of reporting upon its specific heads; that his honorable friend from Massachusetts, (Mr. EVERETT,) and Mr. Bancroft, a gentleman scarcely less distinguished in the literature of his own State, were appointed to report on the course of instruction in the languages and mathematics, to which they both contributed an interesting memoir on the method of instruction. He believed, in the mathematical branch of their sub-report, they were assisted by a summary of the mathematical problems which had been solved by the cadets, from the memoranda of Professor Dewey, a distinguished mathematician, who resided in the district of the gentleman from Massachusetts on his left, (Mr. DWIGHT.) To Mr. Skinner, the

FEBRUARY, 1828.]

*Military Appropriations—West Point and its Visitors.*

[H. OF R.]

able editor of the *American Farmer*, and some other members of the Board, was confided the duty of reporting on what might be termed the civil economy and civil police of the institution. To Colonel Eustis, Colonel Walbach, and himself, (Mr. H.,) was assigned the office of reporting upon the method of instruction in military tactics proper, with the duties of troops in camp and on marches, and on castrametation and strategy, and in reference to the military discipline of the institution generally. With the able assistance of these two gentlemen, he (Mr. H.) had prepared that part of the report appertaining to these subjects. These separate reports of the sub-committees, with scarcely any, even verbal alterations, were incorporated into the general report, by the gentleman from Massachusetts, (Mr. EVERETT.) Mr. H. said he had made this statement with the less reluctance, as it enabled him to rebut an insinuation, which was unkindly made the other day, that the Faculty at West Point prepared these reports for the Board of Visitors—a declaration altogether erroneous and unjust, as the report to which he referred was made without the slightest communication with the Superintendent or Professors. He would now say a single word, before he concluded, in reference to the compensation which the members of the Board received for their attendance at West Point, and he could not do this more effectually, than by stating what he had received himself, and the labors he underwent, he could not say performed. He received an invitation, whilst in Charleston, from the Secretary of War, to attend the examination on the 1st of June. For his passage from Charleston to New York, by water, and his expenses thence to West Point, he received thirty-five dollars, and the quartermaster paid him a similar sum for his expenses on his return home.

In pocketing this enormous amount, he confessed he had no very alarming twinges of conscience. The Board met at 5 o'clock, A. M., and sat until 8; they met again at 9, and sat until 2 P. M.—convened at 8 and adjourned at 7. After this laborious confinement, he confessed that the appetite with which he ate his meals, was not affected by the reflection that it was the public food—as he believed he had honestly earned it, as he did his present compensation. He could not say that he understood every thing that he saw and heard; for he did not profess to be a master of the complex and abstract relations of the higher mathematics, but he trusted that, within the scope of a very plain understanding, he had observed enough of the prosperity and admirable progress of this noble institution, to authorize his putting his hand to the report, which he had done. He never had been engaged in an avocation more laborious, or in a duty more satisfactory; and if he left the institution with any impression stronger than the absolute conviction of its inestimable usefulness to the country, it was this: that its annual examination,

by intelligent and respectable men, was an essential auxiliary to its future success and prosperity.

The question was put on the amendment of Mr. INGHAM, and negatived without a division.

Mr. BASSETT then moved to strike out the whole item. He had no question as to the importance and value of the Board of Visitors. His objections to this appropriation arose from an entirely different principle. He had been greatly surprised by the course of argument when this subject was last up. It had been but a few days since, the House almost unanimously passed a resolution declaring that it was necessary to examine into the public abuses. But, when he compared the arguments on that occasion, with those employed on this appropriation, he felt greatly astonished, and could hardly believe that he was in the same region. Talk of abuses? and as soon as you are presented with a barefaced abuse, to turn round and justify it! Am I not justified, said Mr. B., in calling this an abuse? that the duties performed may be very valuable, I do not dispute; but will you sanction, in the Executive branch of this Government, the power to appoint persons—prescribe their duties, and pay for their performance, without the sanction of legislative enactment? Is not the constitution plainly against it, as well as all the arguments used by gentlemen on the other side? Here is an appointing power without limit, as to the extent of time or the number of persons, and the whole Treasury is thrown open for their payment. Gentlemen tell us, indeed, that the Executive discretion will limit all this. I ask, does the constitution admit it? or can language more plainly forbid it than does that instrument? The gentleman from Florida, indeed, read, with some exultation, what he considered as definitive authority on this subject; and what was his authority? The army regulations: and by whom were these enacted? By Congress? No: by the War Department. I admit the arrangement to be an excellent one; but, be it ever so good, it is one which devolves on us; the duty is ours; and it is our shame and reproach that we have not done it before. But let us now do our duty, though it be at a late hour. Let us not use the abuses of the past, as a mantle to cover abuses for the future. Let us have a Board of Visitors; but let that Board exist by law, and let the law fix and authorize their compensation. The danger of the principle on which the matter now stood, was plainly illustrated by the remarks of the gentleman from Vermont, (Mr. MALLARY,) who said that it was important that a knowledge of this institution, and of the progress and relative standing of the cadets, should be disseminated through the nation. On this principle, I suppose we shall hear that one member of the Visiting Board must be taken from every State in the Union; and as the Executive may go to the ultimate of its discretion, very possibly they may require

two members from the larger States: see, then, to what a body this Board may grow. A gentleman from Massachusetts, with more of liberality than had been exhibited by some others, had admitted that there should be a limit fixed, and contended that this limit is established by the appropriation. But I confess that I see no limit at all. We have given the Department \$1,500, while, before, they had nothing; and they still have the same contingent fund within their grasp as they had before. The same gentleman has said, that we ought to pay the expense of the Visitors only while they are in actual attendance at West Point. But, take the doctrine of the gentleman who is at the head of the Committee of Ways and Means, for our principle, and where is our limit then? That gentleman tells you that, if the Executive has made a contract, and a work has been performed under it, the House is bound to make the appropriation. If so, it is nonsense to talk about limiting the Executive. He has no limit whatever as to the States whence the Visitors are to be taken, the length of time they are to serve, the number of the Board, or the compensation they are to receive. All this may be embraced in a law. If the Executive wished for such power, he might have recommended the subject to the Legislature, and obtained it in a regular manner. The regulation read by the gentleman from Florida, said, that the Board was to consist of not less than five members. But the number has already grown to 11, 12, and sometimes to 14 members. I hope the House will either agree to reject the doctrine of limiting the Executive, or reject this item of the bill, and that we shall not take up a doctrine one day, and lay it down the next, just as may suit gentlemen's temporary convenience. We have been told that it belongs to an appropriation bill merely to provide the means of carrying into effect pre-existing laws. But here, no law is so much as pretended. But we are called upon to sanction, by a side-wind, a lawless assumption of power by the Executive. One word more, and I have done. We are all sensible of the extent of the Executive patronage, and it seems generally agreed that that patronage ought not to be extended without urgent necessity. Now, there is no form in which it exists, which strikes me so unfavorably as this. All have declared that no man, while a member of this House, can receive and hold any Executive appointment; but here is a case in the very teeth of that declaration; he receives an appointment which, if not of honor and profit, is at least complimentary in its character, while he retains a seat here: and though we now propose to allow only his expenses, yet there is no limit nor safeguard. The same principle would authorize the enlargement of the emoluments to any extent. To such a principle I can never lend my sanction.

The motion of Mr. BASSETT was rejected.

*Indian Appropriations—Emigration of Indians.*

Mr. McDUFFIE moved the consideration of the bill making appropriations for the Indian Department, for 1828. That bill having been taken up,

Mr. McDUFFIE moved to insert, after the above amendment, the following:

"For aiding the emigration of the Creek Indians, providing for them for the period of twelve months, after their emigration, and for rendering them such assistance as the President of the United States may think proper, in their agricultural operations, \$50,000.

"For enabling the President of the United States to extinguish the title of the Cherokee Indians to any lands in the State of Georgia, where it can be done upon 'peaceable and reasonable terms,' and for aiding the said Cherokees, and such other Indians, as may be so disposed, to emigrate to places west of the Mississippi, \$50,000."

Mr. McD. said, that the War Department had asked a large sum for this object; that the Committee of Ways and Means, not feeling competent to decide, had moved to be discharged from the consideration of this part of the subject, and, at their request, it had been referred to the Committee on Indian Affairs; that committee had reported on the subject, recommending the sum now in the bill, and, on their recommendation, it had been inserted. He believed the appropriation to be a perfectly proper one, and hoped it would prevail.

Mr. HAILE inquired if the Chickasaws were included in the amendment?

The Chair replied that they were virtually included in the words "all such other Indians," which immediately followed.

Mr. HAILE then moved to insert the word "Chickasaws" immediately after the word Cherokees.

Mr. McLEAN (Chairman of the Committee on Indian Affairs) said he could see no need of inserting this word—a bill had been prepared and reported by the Indian Committee to provide aid for the removal of the Chickasaws, and would soon come up in order.

Mr. HAILE replied, that his State was vitally interested in this matter. He thought that the Committee on Indian Affairs had done her great injustice in excluding her from the appropriation bill. That was a bill that always passed. The private bill to which the gentleman had alluded might not, and probably would not, be reached during the session; and he should like to know why a distinction was to be made in favor of the Creeks and Cherokees, when no agent had been sent among them; while the Chickasaws, to whom an agent had been sent, and who had expressed their willingness to remove, were excluded from the bill. Other States and Territories could be aided, and the Treasury exhausted to relieve them from the burden of their Indian population; but his State, in which an Indian country, of 150 miles in extent, separated an

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

entire county, with all its inhabitants, from the residue of the white population, was to be neglected, although her Representative had been the very first to move a consideration of this subject. This he considered as great injustice.

Mr. LUMPKIN observed, in reply, that this subject had early been brought before the Committee on Indian Affairs. They had given a prompt and serious attention to it, and there now lies on the table of the House a bill prepared and reported by them for the very object the gentleman from Mississippi had in view. But, in this case, he saw verified that ancient declaration, that the last shall be first, and the first shall be last. The appropriation bill providing for the removal of the Creeks and Cherokees had brought that subject first in order. But he trusted that, if the gentleman would exercise a little patience, the subject he had so much at heart would come up in its turn, when he promised that gentleman he should find him (Mr. L.) disposed to act with the utmost liberality, and to promote his views, as far as it was in his power. But, to lug in that subject at present, could only defeat other objects, and take \$15,000 or \$20,000 from an appropriation already, if any thing, too small.

Mr. HAILE replied, and remonstrated. He had moved a resolution respecting the removal of the Chickasaws. The gentleman from Georgia had introduced the Creeks into his resolution, and then the Cherokees, and the gentleman from Florida brought in the Seminoles. He had entreated the gentleman not to embarrass his motion in this manner. But, embarrassed as it was, it went to the Indian Committee. That committee had taken up the Creeks and Cherokees, and sent them to be provided for by the Committee of Ways and Means, leaving the Chickasaws, who were the first-named in the resolution, to the precarious hope of coming in afterwards, by a separate bill. In this he thought they had done him very great injustice. That committee had no right thus to separate the tribes. If any went into an appropriation bill, the Chickasaws should have gone first. He had expected some little liberality from the gentlemen from Georgia, but they had crowded down his resolution, and then left him out. He perceived that a man could expect little from his friends in this House. He was resolved, for the future, to rely upon the liberality of no man. He demanded nothing but justice, and that House should ring with his voice till he obtained it.

Mr. HAYNES said, that this difficulty could easily be reconciled. Let the amendment of the gentleman be adopted, and the sum appropriated be proportionably increased. He thought there was a propriety in including all the southern Indians, as the same policy applied to them all.

Mr. HOFFMAN had no desire to interfere in a matter of this kind, but he was one of those who believed that the United States Govern-

ment is bound to take the earliest opportunity of extinguishing the Indian title to lands in Georgia; and he desired the Chairman of the Committee on Indian Affairs to state whether that was not the object intended to be provided for in this appropriation.

Mr. McLEAN replied in the affirmative.

Mr. HOFFMAN replied, if that was the case, he thought there was good reason why the amendment should not be adopted. Every reflecting man must be anxious to see the compact of 1802 fulfilled in good faith. But the Chickasaws were not involved in its provisions, and stood upon an entirely different footing.

Mr. Woods, of Ohio, wished to know whether the provision for the Cherokees was introduced in fulfilment of any treaty with that tribe.

Mr. McLEAN replied, that it had been inserted in conformity with the compact between the United States and Georgia, by which compact it became the duty of the General Government, at all times, to stand in readiness to extinguish the Indian title within that State, so soon as it could be done on reasonable and peaceable terms. The subject to which the gentleman from Mississippi alluded, had been among the very first to which the Committee on Indian Affairs gave their attention; and they had accordingly reported a bill providing for the request of that tribe, that they might be permitted first to examine the land proposed to be given them, before they should decide on relinquishing what they at present possessed. It would be surely improper to provide for extinguishing their title at this time, when it was but a few months ago that they had expressly refused to remove. He was therefore at a loss to know where was the ground for the complaints of injustice so loudly made by the gentleman from Mississippi. The estimates of the Department had been referred to the Indian Committee; their report upon them had been approved by the Committee of Ways and Means; and this last committee had, in consequence, inserted the item in the bill.

Mr. HAILE replied, and insisted upon the ground he had formerly taken. \$50,000 had formerly been appropriated in the case of the Creeks, and now \$50,000 more are proposed, although the Creeks say positively they will not remove. But the Chickasaws have written a letter to the Governor, signifying their willingness to emigrate, and yet they are to be excluded from the bill. An appropriation in their case, Mr. H. insisted, was the only one from which the Government could derive the least shadow of benefit. He thought a new system of legislation was getting into this House, by which an appropriation bill was made the lever to force measures in favor of one section of the country to the injury of another. He protested against this, and then proceeded again to urge the claims of the Chickasaws.

Mr. BATES, of Missouri, said he understood

this to be a bill regularly reported every year, providing for the ordinary annual expenses of the Indian Department. If special objects were to be provided for, special appropriations ought to be made to meet them; and if such an object as was contemplated by the amendment, was to be brought into this bill, all other special objects might as well be brought into it. In addition to this, something might be said on the question where the Government meant to invite these Indians to settle. He was aware that it would not be in order to discuss that question at this time. One objection to the amendment was this, that it gave unlimited authority to the officer at the head of the War Department, to give direction to the march of this tribe when it should remove. It either allowed him a boundless discretion, or else it was a barren appropriation, effecting nothing. When the bill which had been reported by the Committee on Indian Affairs should come up, the whole subject would be open for discussion; but, at present, such an appropriation would be perfectly anomalous in a regular annual appropriation bill for the Indian Department. It was well known, that the regular expenses of that Department amounted to less than the irregular expenses of it—the former amounted to about \$80,000, while the fund for contingencies was \$95,000.

Mr. B. said he could not vote understandingly in this matter, unless he had the means of inquiring further into it. He would go heart and hand with the gentleman, if the Indians were troublesome neighbors, and they wished to get rid of them, provided this could be done without injuring other people. The bill says, "to emigrate west of the Mississippi." Now it was not the first time that Indians had been brought from other parts of the country, and placed down in the bosom and very heart of the State from which he came. Here he enumerated the Kickapoos, Weas, and several other tribes, who had thus been removed. He said his constituents, many of them, lived, to be sure, in the woods, and were on the borders of the republic—but still they had some desire to improve their situation, as well as other people—and they did not wish to have a body of Indians placed down in the midst of them by their Government, and still less, if the power to do this was to be exercised by a sub-agent of the War Department. If once the promise was given to the Indians, although by an unauthorized agent, they would count upon its fulfillment. They knew none of our distinctions as to authorized and unauthorized officers of the Government, and if the promise was not fulfilled, their sense of justice and good faith was shocked. The gentleman from Mississippi, however, need fear no opposition from him, with respect to the removal of his Chickasaws, if he would only act on the good old maxim, so use your own as not to injure others. Mr. B. concluded by saying he should vote against all propositions like that now moved.

Mr. SPRAGUE said that, in justice to the Committee on Indian Affairs, it was proper to state, that, if any complaint at all was made in this matter, it should be against the Committee of Ways and Means. The item came from that committee in the same manner as every other item in the bill. It was not the Committee of Indian Affairs that had placed it there. They had only reported in favor of a measure which appeared to them expedient and proper. He hoped the House would not go into a general discussion of all our Indian affairs on the present bill. It was very evident that gentlemen in all parts of the House were alive to the subject, and it must be acknowledged, that it was one attended with extreme difficulty at all times. Mr. S. said he had himself had many and great difficulties to surmount in assenting to the appropriation already agreed to, and he hoped that, in a mere incidental debate, the general policy of the removal of the Indians would not have to be taken up and decided. It had forced itself on his observation, since he had been a member of this House, as a great evil in the mode of its legislation, that subjects of the greatest weight were forced upon the House in the most unexpected manner, by mere incidental motions. The consequence was, that they were discussed when gentlemen were not fully prepared for them, and hours and days were wasted on questions not properly connected with the main subject before the House. There were special reasons applying to the case of the Creeks and Cherokees, which did not apply to the other Indian tribes. If the Chickasaws were introduced, all the other Indians would have to follow, because gentlemen stood ready to introduce them, to whose States they were as great an annoyance as the Chickasaws were to the State of Mississippi. The same argument would be urged in every case, and there would be no end to the amendments. He hoped, therefore, that now proposed, would not prevail.

Mr. WHITE should only detain the committee a few minutes at this late hour of the day. If there was any merit in having the subject first proposed in the House, the gentleman from Mississippi would do him the justice to say, that his was the second proposition on this subject, having been moved as an amendment to the resolution of that gentleman, referred to in debate, and which would have been moved in a separate form, if it had not been adopted in conjunction with that. This, said Mr. W., is a subject of deep interest to the Territory I represent; and, if the amendment now proposed, be adopted, I shall feel myself bound to move to insert in this bill the Florida Indians. I do not wish to embarrass the amendment of the member from Mississippi, but he must perceive that the success of his motion will leave me in a worse situation than the one in which he is placed. The bill reported by the Committee on Indian Affairs, provides an appropriation for the purpose of enabling "the Chicka-

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

and other Indians," to explore the country west of the Mississippi. Now, sir, I understand that the "other Indians" in the bill, are those which are the annoyance of my constituents; and, if the Chickasaws are now included in this bill, I shall be without a "loop to hang a hope upon;" and I now give notice, that, if this succeeds, I will not depend on the remote hope of reaching the other bill, but also move my amendment. I cannot concur with the gentleman from Maine, (Mr. SPRAGUE,) that this is not the time or place to discuss this subject. The subject now under consideration, as legitimately belongs to this bill, as the proposed appropriation for the Creeks and Cherokees. Where is the difference? The member from Maine, who is a constituent member of the Committee of Ways and Means, says this subject comes from the War Department, has been sanctioned by the Committee on Indian Affairs, and is contained in a certain convention between Georgia and the United States. Now, sir, I tell that gentlemen, that the subject of the removal of the Florida and Chickasaw Indians also comes from the War Department, under grave recommendations, and has also met the favorable consideration of the Standing Committee of this House, to whom the subject appropriately belongs. So far the parallel is complete: and, as to the convention with Georgia, I cannot agree that, on that account, one shall be placed in a regular appropriation bill, and the other left to the uncertainty of its fate, at a session that promises so little. I ardently hope that Georgia may succeed in having her convention executed to the letter and spirit. But, sir, the obligations of humanity, and the imperative dictates of sound policy, impose as strong an injunction on this Government to provide for the removal of the Florida Indians, as any compact or convention can require. The miserable condition of these people has been presented to you, by your own officers, in a language not soon to be forgotten. You have been told that they cannot subsist within their present assigned limits, and must starve, or plunder their neighbors. An appropriation has been made by Congress to feed them; re-examinations ordered by the Secretary of War, and a return again made by General Gaines, that they cannot live within their limits. A very respectable and highly distinguished officer, Colonel Clinch, of the 4th regiment of infantry, attended General Gaines on the last examination, and he concurs in the opinion that they must steal or starve. Now, sir, the claims of Georgia may be strong, but how can we, looking to the humanity and policy of our Government, and, moreover, referring to the certainty of future collision, which must be attended with the loss of blood and treasure, and demands for indemnity, refuse to place the two objects on the same footing? If this motion was to add the appropriation of \$15,000, reported for our object, to that in this bill, and include the Chickasaw and Florida

Indians, I should be glad to see it carried; but, in its present form, I am opposed to it, without including ours. I can inform the gentleman from Missouri, that it is not contemplated to locate the Indians within his State, but west of it, and north of Arkansas, and upon lands to which the United States have an undisputed title, not within the limits of any State or Territory.

Mr. LUMPKIN said he perceived the subject was misunderstood, and this could arise only from a want of attention on the part of the House. He was aware that this was not the time for a general discussion of our Indian affairs. He thought the remarks of the gentleman from Missouri (Mr. BATES) were well worthy of attention. But he thought this was not the time or place for considering it. Mr. L. said he would endeavor to point out the distinction between the cases of the Creeks and Cherokees, and that of the Chickasaws and other tribes. The amendment proposed by the Committee of Ways and Means, and which provides for the removal of the Creeks and Cherokees, had been introduced in consequence of the estimates received from the War Department, in relation to that subject. When those estimates came into the House, they were referred, as of course, to the Committee of Ways and Means. That committee very properly moved for their reference to the Committee on Indian Affairs. This latter committee had carefully examined the estimates, and had reported favorably upon the subject. It was then sent back to the Committee of Ways and Means.

Mr. L. said, that, as a member of the Committee on Indian Affairs, he had expected this item to be provided for in a separate bill, but the Committee of Ways and Means had thought otherwise, and had concluded to provide for it in the present appropriation bill. Now the distinction which gave a preference to the Creeks and Cherokees was, that a treaty had already been made with the Creeks, which could not be fulfilled, without a part of this appropriation, and the residue was equally necessary to enable the Government to fulfil its compact with Georgia, in relation to the Cherokees. No such treaty or compact applied to the other tribes. It was the understanding of the committee that the application of this sum depended on the free consent of the Indians; neither force nor favor was to be made use of; if their removal could be effected on such terms, it was well; if not, the means appropriated would remain in the hands of the Government. But without the appropriation, it was impossible that the Government could fulfil its compact with Georgia. Mr. L. said he would not enter, at this time, on the subject of the claims of that State. He knew the impressions which many gentlemen had received in relation to them. But, whatever warmth was charged upon her Government, by those who had misrepresented her motives, when the truth was fully known, it would appear, that, so far from being charge-

able with urging unwarrantable demands, her forbearance on this subject had been without a parallel. She had waited for twenty-five years for the fulfilment of the contract made by the General Government, and she had witnessed, during that time, the extinction of the Indian title to entire States which had been admitted into the Union. Yet she had continued to wait, until she perceived it to be adopted as a settled policy, that those Indians were to be kept within her limits. He knew that the people and the Government of Georgia had been represented as wishing to bear down these unhappy people, and to treat them with harshness and oppression. Nothing could be farther from the truth, or could do more injustice to the feelings of the people of Georgia. Their pity and solicitude for these wretched tribes, were felt to a degree which could not be expressed. Their removal was never contemplated, or intended as a compulsory measure. They were to remove in a peaceable and voluntary manner, or not at all. The arrangement provided for by the amendment of the Committee of Ways and Means, appeared to him fair and just. He was equally willing to remove the wretched remnants of these people from all the other States, for he could truly say, that it was among the warmest wishes of his heart, to benefit these poor suffering remnants of the aboriginal race, in a way the most effectual and permanent.

The question was then put on the amendment of Mr. HALE, and negatived.

Mr. Woods, of Ohio, moved to amend the amendment of Mr. McDUFFIE, by striking out the words "and for aiding the said Cherokees, and such other Indians as may be so disposed, to emigrate to places west of the Mississippi."

This amendment, he thought, would meet the views of both committees, and would, also, remove the difficulty of the gentleman from Missouri, (Mr. BATES.) The subject was not a new one. It had been agitated for years, and had been particularly discussed at the last session, at which session a bill had been introduced, similar to that now reported, from the Indian Committee, but had never been called up. If a general course of policy was thus to be introduced and sanctioned by an item in the appropriation bill, that bill might be made an instrument of changing the whole course of the Government. He did not wish to interfere with the obligation of treaties, but he knew of no treaty with the Cherokees which provided for their emigration. He was willing to do all that was necessary to fulfil the compact with the Government of Georgia, but he was not willing to say that it was the settled policy of the Government that those Indians were to be removed. The gentleman from Kentucky had been right, the other day, in saying that there ought to be no treaty with any Indian tribes, unless there had been a previous appropriation; but a different practice had prevailed; and if called upon to make out a list of the sins of

this Administration, he would set down, as a prominent item, the sanction which it had given to this system. He was for tying up the hands of the Executive until the House had an opportunity to know what plan was to be pursued. He was against removing the Indians west of the Mississippi, and as far as principle was concerned, he would as soon vote to place them northwest of the Ohio. The subject was one of deep interest to the country. Gentlemen would recollect that his amendment did not touch the sum appropriated, but only a particular application of that sum. If it prevailed, the appropriation would be left for removing the Indians from Georgia. He did not wish to sanction the policy of the Administration in this matter, which he considered as one of their errors. Treaties were made by men invested with almost unlimited discretion, and over whose acts, when once done, this House had little or no control. He would not go farther into the subject, except to state, that, no longer ago than last year, the Government had received a positive refusal from the Chickasaws to emigrate. Since then, an agent has been sent to make his bow, and they had consented so far as to examine the lands.

Mr. McDUFFIE said, that the Committee of Ways and Means had not only felt no disposition to give a preference to this provision for the removal of the Creeks and Cherokees, but had felt a disposition directly the reverse. The proposition had not originated with them, but came strongly recommended from the War Department. He had, in consequence, been instructed to ask that the Committee of Ways and Means might be discharged from the consideration of the subject, and that it might be referred to the Committee on Indian Affairs. This last committee had reported upon it, and recommended the appropriation in the very language now inserted in the bill. He could not agree with gentlemen who thought this an improper time to discuss the general policy of removing the remnants of the Indian tribes to the west of the Mississippi. He thought that policy was now fairly before Congress: that if gentlemen meant to discuss it at all, now was the proper time to do so. It had heretofore been the custom to embrace these appropriations for the Indian service in the Military Appropriation Bill. The Committee of Ways and Means had thought it more proper to present them in a separate bill. They were all subjects for fair discussion.

On the general subject of the policy of aiding the emigration of our Indians to the West, he had no hesitation in saying, that he regarded it as the settled policy of this Government. The Executive, under the last, as well as the present Administration, had clearly expressed an opinion in its favor. It was true, Congress had not yet officially expressed such a sentiment. But he believed it to be the settled opinion of a large majority of the House, that the Indians within the limits of our settled

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

States must either be induced to emigrate, or must infallibly sink into a state of indescribable and irretrievable wretchedness. He considered the idea of civilizing and educating them as wholly delusive. The experiment had been tried, and the result had proved, that, while surrounded by the whites, the Indians acquired all the vices of a civilized people, and none of their virtues. He thought the Government ought to make use of all proper and legitimate means to remove them, and he trusted it would be left in the power of the Executive to try the effect of money in inducing them to emigrate.

TUESDAY, February 19.

*Emigration of Indians.*

The House went into Committee of the Whole on the bill making appropriations for the Indian Department, and the question immediately before the committee being on the motion of Mr. Woods, of Ohio, to amend Mr. McDuffin's amendment, by striking out from it these words: "And for aiding the said Cherokees, and such other Indians as may be so disposed, to emigrate to places west of the Mississippi"—

Mr. SMITH, of Indiana, said, he had not expected that the question now before the Committee of the Whole, for our consideration, would have been discussed on the general appropriation bill. I did believe, sir, that this question would have been submitted more properly to the consideration of the House, on the bill reported on this subject by the Committee on Indian Affairs, which bill is accompanied by a special report from that committee. But, sir, the House has determined otherwise. The Committee of Ways and Means has reported, as one item in the appropriation bill, the sum of fifteen thousand dollars, for the purpose of aiding in the removal of the Cherokees, and such other Indians as may be disposed to emigrate to a section of country west of the Mississippi, with a view to their permanent location forever. This appropriation, the amendment offered by the gentleman from Ohio, (Mr. Woods,) proposes to strike out. Hence, sir, as has been correctly remarked by the honorable Chairman of the Committee of Ways and Means, (Mr. McDuffin,) the subject is fairly before the committee at this time; and I admit that it can be of very little importance to the committee at what time the question is met, discussed, and finally decided. The Chair has remarked, that the question on the amendment does not involve or embrace the appropriation to comply with the contract on the part of the United States, with the Creek Indians, under the late treaty with that nation; and, upon this intimation, the gentleman from Alabama, (Mr. OWEN,) declined making any remarks on the question before the committee. For my own part, sir, I am not disposed to abandon the discussion of the question before

us, because the Creek Indians are not included in terms, as I consider the amendment of the gentleman from Ohio as covering the whole ground, and as bringing up for discussion and consideration the past, the present, and the future policy of this Government, in relation to this unfortunate people. Sir, this amendment submits to us, as the Representatives of the people, the important consideration, whether we will continue the same destructive policy which has heretofore been pursued by the United States, or whether a more liberal and humane policy shall be adopted in relation to this people.

Sir, I consider the question now before the committee as one of momentous importance; it is of importance to the character of the United States, and of much greater importance to that most unfortunate and wretched people, that the future policy of the Government, in relation to them, should be marked with justice, humanity, and a magnanimity of purpose, that will atone, as far as possible, for the great injustice which we have done them. We cannot retrace our steps; we cannot affect the past; we cannot resuscitate or bring to life the thousands of this miserable people, who have wasted away and perished under the influence of our baneful policy. But, sir, we may, and I do most sincerely hope will, profit by the past experience of the nation, in the policy which has been pursued, and in our future legislation on this subject carefully avoid that course of policy which has produced such dire effects.

Sir, I do not address the committee in my place, exclusively as the advocate of the Indians; but I wish to be understood as being the advocate of a just, humane, and magnanimous course towards them, on the part of this Government. No, sir, they have no representative on this floor; they must rely for justice on the philanthropy and humanity of the representatives of that people, who have reduced them to their present wretched situation, and, sir, I feel well satisfied that this committee will not turn a deaf ear to their complaints.

Sir, in order to determine the questions correctly, which arise on this amendment, it is important for us to decide, whether the situation of the Indians is such as to require the interposition of the strong arm of the United States in their behalf, and whether the United States are under any obligation of justice, humanity, morality, or religion, to afford the relief necessary to prevent the total extinction of this people. Sir, let me examine for a moment and see who these Indians now are, and who they once were. Great, very great, have been the vicissitudes in life, which they have been doomed to experience. We cannot shut our eyes against the facts, sir. We found them the lawful occupiers of this vast extent of territory, now circumscribed by the boundaries of the United States. We found them the lords of the soil; we found them a great and powerful nation, or rather a number



of nations in the rude state. As individuals, it is true they were emphatically the children of the forest; yet they were, in a degree, prosperous, and, to all appearances, happy; they were possessed of constitutions, which put at defiance the assaults of cold, hunger, thirst, and fatigue. The water from the fountains was their only drink, and the common diseases which are now sweeping away this wretched people, as with the breath of a pestilence, were then unknown to them; the causes which produce the effect now, had not reached them then; I allude, sir, in part, to the introduction of spirituous liquors amongst them, by their white neighbors, of which, most unfortunately for them, they are passionately fond.

Sir, such were these people when we first knew them; what are they now? It does seem, that, from the time of the first settling of our forefathers at James Town, and at Plymouth, the lands of the Indians had been considered as a lawful conquest. A war of extermination from that time, or as soon after as the whites supposed that they had acquired sufficient strength to maintain their conquests, was waged against the aboriginal inhabitants of the country; and it is but a very short time since, that we have stayed the sword of desolation. We have seen their most powerful nations dwindled down to poor wandering tribes, and their greatest kings reduced to beggarly chiefs. We have seen them driven by the whites, from river to river, from State to State, from hill to hill, from mountain to mountain, and from forest to forest; the tide of white emigration still flowing West, and still pressing close upon them; and if we continue the present policy, the time cannot be very far distant, when the last sound of the Indian must die on the Pacific. I am aware, sir, that it is contended by writers of celebrity that a country inhabited as this was belongs to the nation that happens to discover it, and that it is a lawful subject for conquest. But, sir, I cannot subscribe to this doctrine, to such an extent. It is founded on a principle, maintained by arbitrary governments alone, that power gives right. Sir, if my neighbor being the owner of a farm, is not as good a husbandman as I am, if he lets his farm grow up with weeds, briars, and thorns, or even refuses to cut off the timber, shall I, because I have the power, drive him from the possession of his premises, and take possession myself, under the pretext that he did not cultivate his land as it ought to be cultivated?

I know, that, in some instances, formerly, and many instances of latter years, you have pretended to hold treaties with them, and to acquire their lands by contract; but, sir, how has this been done? It has been done nine times out of ten, by bribing their chiefs, and not unfrequently with arms in your hands. What kind of a contract is this when concluded? It is such a one as ought not to be binding on the party thus imposed upon. You had better, yes, ten thousand times better,

resort to the law of conquest; for in that case, you could plead the custom of nations as an apology for your wrongs. Your treaties have been not unfrequently held immediately after the most bloody and destructive war to the Indians had terminated in favor of your arms, and as a consideration for the injuries they had done you. With arms in your hands, you take their lands, and restore to them peace; and they retreat further into the wilderness, and are at rest until the eyes of your avarice have again counted the acres of land which they occupy, and added them to the countless acres which you had previously taken from them. Then a new treaty is held, and they are again dispossessed. But, as an excuse for your conduct towards them, it is said that, in some instances, they had inhumanly murdered some of the whites. This is no doubt true; but cannot we find some little excuse for them, although we are not prepared to justify them in the fact, that they have been generally defending their homes—the country that contained the bones of their fathers, and in which they found, at all times, an old associate in every spring, in every running stream, and even in every silent tree that stood near the wigwam or travelling path. Who would not have disputed the occupancy of a country under such circumstances, with any daring intruder?

Sir, it is true, that you have, by some of your treaties, stipulated to pay, and that you actually have paid to the different tribes of Indians, certain annuities, in consideration of lands received from them; and, sir, however much gentlemen may differ from me in opinion, I am constrained to say, that, in my opinion, this is the most destructive policy which you have ever pursued towards them; your annuities are melting them away, like snow under a meridian sun. When they had to rely on their own exertions for procuring a livelihood, they were a reasonably industrious people; they attended to their trapping at the proper season, and, most generally, expended the moneys arising from a sale of their skins, in necessities; but, now, you have held out to them a lure to dissipation and idleness; relying on their annuity, their traps are neglected; they spend their time in idleness and the most abandoned dissipation, and their whole mind is steadfastly bent on getting spirituous liquors. I know there are exceptions to the character which I have described, but they are lamentably rare. There are always men found, where they are surrounded by the whites, base enough to prey upon their wretchedness—the money, the annuity, is a sufficient inducement for such conduct. And yet, sir, there are many honorable men within my own knowledge, who are called Indian traders, who furnish them with the necessities of life, and who would not condescend to such meanness.

Sir, a part of your policy at present is, to send missionaries amongst them. I have no doubt but that they have been of essential

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

service in promoting the present, the future, and eternal welfare of many of these wretched beings; but I have heard some of the most enlightened of them say, that the benefits they are enabled to render, can only be partial, so long as the present policy of the Government is continued in other respects. You might as well attempt to moralize, civilize, or christianize a maniac, as an Indian who has no inducement to reform, and who has it in his power to be daily intoxicated.

I have attempted to tell you who these people formerly were; I have endeavored to show who, and what, they now are. Will any gentleman, who is conversant with this subject, say, that the shades of the picture are too highly colored? I think not. Then, sir, these people do stand in great need of the interposition of the strong arm of this Government to relieve them; and this Government is bound, by every tie of humanity, justice, morality, and religion, to do all in her power to save the wreck of this people. Will gentlemen say, that nothing shall be done in this glorious work? Will gentlemen say, that, after being the cause of reducing these people to their present state of wretchedness and misery, we shall fold up our arms and see them perish—see their total extinction—without making one more effort to save them? I feel satisfied, sir, that we shall all agree to do something; but I fear we shall differ so widely as to the *modus operandi*, as to endanger the major proposition, by the details of the minor. Judging by the motion now pending before the committee, and the remarks that have fallen from gentlemen, there are those in this committee who would be willing to leave the Indians on their present location, and continue, and even increase, the annuities. To such gentlemen I would say, that we have tried this policy long enough, and if we persist in it, the most of the Indians must perish. They feel themselves to be a poor, degraded, outcast, and subordinate race of beings—they have nothing, where they are, to stimulate them—they have no evidence that they will be permitted to continue where they are—they see that the States wish to get rid of them; that they wish to extend their jurisdiction over their soil, and in some recent instances, over their persons. All the respectable missionaries, and all the respectable agents, who are amongst them, the last and the present Administration of the Government, have pointed to the course which the Committee on Indian Affairs has thought proper to adopt, as the only probable remedy, left untried, for their preservation. I know of no better remedy, and I am frank to admit, that I am not entirely certain that this remedy will have the desired effect; but I feel disposed to try it, unless gentlemen can satisfy me that they have a remedy which will prove a more powerful antidote in counteracting the poison which has been infused into the Indians by their general policy. The policy proposed by the committee, and of which this bill is the first

step, is to grant to the Indians, and their children, forever, in fee simple, a district of country west of the Mississippi, and beyond the limits of the States, near the Rocky Mountains, sufficiently large to contain, advantageously, all the Indians in the United States, where they will have assurances that they will never be again disturbed by the whites, and where they may be stimulated to advance in civilized life, by forming a constitution and laws for their own Government, and by betaking themselves to industrious pursuits to obtain a livelihood.

It is true, sir, I am not prepared to say that we should use compulsory means to remove the Indians; they should be induced to remove of their own voluntary free will and accord. It is upon this principle that we propose to make the appropriation of fifteen thousand dollars, to enable such as are now willing to remove, to migrate, and such as are not willing, at this time, to send a deputation of their chiefs, warriors, and head men, in company with such commissioners as the President of the United States may appoint, to explore the country, and to satisfy themselves of its fitness for the purposes of their future residence.

It is altogether important that the Indians should be satisfied with the country to which we purpose to transfer them, with their consent; and I know of no way to produce the effect with greater certainty, than by affording them an opportunity of exploring the country, by deputations of their chiefs, warriors, and head men, on whose judgment they can rely, and in whose statements they will place implicit confidence.

I have heard it said on this floor, that we have no lands on which to locate the Indians, were we so disposed; that all the lands will be wanted for the whites. Sir, if we have not now surplus lands within the limits of the United States to exchange for the lands on which the Indians now reside, when, let me ask, shall we have them? Will it be after the tide of emigration has rolled westwardly to the Pacific Ocean? Sir, in my humble opinion, now is the accepted time to commence this great and glorious work. Let us do it, while we have it in our power; and, although we should not succeed to the utmost of our wishes, yet we shall have the gratification of having done all in our power to accomplish it.

Some gentlemen seem to think that the Indians cannot be qualified for self-government, they have not sufficient intellect to perform the duties incident to the government of a nation—that they are too wild and savage in their nature to submit to the laws and regulations necessary to the security of civil society. Sir, I think very differently from gentlemen on this part of the subject. Whenever we have had an opportunity of seeing the expansion of their minds, and the powers of their intellect, we have been compelled to say that they are not inferior in natural powers to the whites. Sir, you have established schools amongst

them, for the purpose of educating their youth, under the superintendence of benevolent missionary institutions, and, considering the great difficulties which they have had to encounter, they have furnished most conclusive evidence of the susceptibility of the Indian mind to improvement, in every thing, moral, civil, and religious. While upon this part of my subject, permit me to refer the committee, as an evidence of the qualifications of the more enlightened of the Indians for self-government, to the late constitution formed by the Cherokees for the Government of that nation, within the limits of Georgia. This constitution will apprise gentlemen of two things: first, that the Indians, where they have had an opportunity for improvement, have shown themselves to be entirely susceptible of acquiring a sufficient *quantum* of knowledge to govern their own concerns; and, secondly, that it is absolutely necessary that the General Government should do all in her power to induce the Indians to remove to a territory beyond the limits of the States. As much as I wish to see the Indians independent, prosperous, and happy, I do not wish to see them establish separate and independent Governments within the boundaries and jurisdiction of the sovereign and independent States, as such a clashing of jurisdiction could not but prove destructive of that feeling of kindness which I wish to see manifested towards them by the whites.

It is not my purpose, sir, at this time, to go into the details of the course to be pursued by the Government, provided this appropriation should pass, and a favorable report should be returned to the next Congress by the commissioners and deputies. It will be time enough to arrange the details at the next session of Congress, when we shall have the additional light of the report before us.

Sir, some gentlemen appear to dread the effects of this policy of concentrating the Indians in one section of the country, supposing that we shall thereby render them more formidable against us, provided they should become hostile to the whites. There may be something in this objection; but I do not apprehend that any serious inconvenience can ever result to the United States from such a concentration. They know that they have felt our power, and they would most carefully avoid giving us cause to exert our power, and direct our arms against them. Besides, I believe the charge of ingratitude cannot be made, with propriety, against the Indians, and I have every reason to believe that they will be grateful to us as their benefactors, should we relieve them. The recollection of past injuries will be buried and forgotten in feelings of gratitude for your philanthropy and kindness. Sir, as an evidence that this feeling of gratitude is not extinct in the Indian breast, I beg leave to relate an anecdote, the truth of which I have no reason to doubt: A short time before the late treaty held with the Miami and Pattawatamie Indians, on the

Mississinawa, in the State of Indiana, a Pattawatamie Chief, by the name of Legro, was at Fort Wayne, and being very much intoxicated, he got into some difficulty with the other Indians, and was very much abused by them; in this situation he was found in the street by a little girl, the daughter of a gentleman of that place, who had him taken to her father's kitchen, where she continued to give him nourishment for several days. Before he left, having recovered, he promised to get her a reservation of land at the treaty then shortly to be holden. Accordingly he attended the treaty, and had half a section of land inserted for her, as a donation from the Indians, which the commissioners on the part of the United States ordered to be stricken out; no sooner did the old chief learn from the interpreter that the reservation was stricken out, than he rose indignantly in the Council House, and before his nation required it to be inserted again, stating, that, unless it was done, he would never sign the treaty; that she had been kind to him, and he would remember her. The commissioners were induced, under the circumstances, to permit her name to be reinserted, and she actually received the reservation.

Sir, a remark that fell from the gentleman from Missouri (Mr. BATES) on yesterday relative to the removal of the Delaware Indians, made a strong impression on my mind. That gentleman complained that the Delawares are located in the vicinity of Missouri. Is it possible, sir, that, in so few years, the remnant of the Six Nations, who inhabited and owned the country on the Delaware and Susquehanna Rivers, and who were so powerful once as to give laws to the whole aboriginal population in the middle section of the country, cannot now find a resting place this side of the Rocky Mountains? That remnant left the State of Indiana, a few years ago, for the West, but I did not know, until I heard the remarks of the gentleman, in what part of that district of country they had stopped. I do hope they may shortly find a resting place, where they will not be again disturbed: they have for years been the warm friends of the United States, and we ought to protect them.

Sir, is the committee prepared, let me ask, to support the amendment of the gentleman, or will the committee rather adopt the policy recommended by two Administrations of the General Government, by the Missionaries, by the Agents, and by the successive Committees on Indian Affairs? The appropriation to enable the Government to comply with its contract with the Creek Indians, is not attempted to be stricken out. Why, let me ask, shall we make a distinction between the Creeks and the Cherokees and other Indians? We all know the difficulty which has existed, and which still exists, though in a less degree than formerly, in Georgia, relative to this matter, and how desirable it is to the State and General Governments that it should be amicably and finally

FEBRUARY, 1838.]

*Indian Appropriations—Immigration of Indians.*

[H. OF R.]

settled. Sir, I know Georgia is much censured in consequence of this difficulty; as to myself, I have had some occasion to look into that question since I have been a member of the Committee on Indian Affairs, and, from all that I can learn on the subject, Georgia has not complained without some cause. But, if the amendment of the gentleman does not prevail, that embarrassing subject can be finally settled to the satisfaction of all parties. Sir, to those gentlemen who view this subject in a pecuniary point of view, I must say, that if we can induce the Indians to believe that the country which we propose for their final location, will answer their purpose, we shall be able to make the exchange for the lands on which the Indians now reside greatly to the pecuniary advantage of the United States.

Let us then, sir, pursue that course, relative to this question, which will redound to our glory and the present, future, and eternal happiness of the Indians.

Mr. Woods, of Ohio, rose and said, that, having submitted the motion now before the committee, he deemed it proper to present, for their consideration, the reasons which had induced him to offer the amendment. I did not bring this question before the committee, (said Mr. W.) It was brought forward by the honorable Chairman of the Committee of Ways and Means, sanctioned by the recommendation of the Committee on Indian Affairs. I did expect some notice, before this subject would have been taken up; and that, on the bill reported by the Committee on Indian Affairs, and now among the orders of the day, this question, in all its relations, would have been fully considered. Such is not, however, the course adopted by that committee.

I have always thought, the ordinary appropriation bills should not be embarrassed by any new measures. They should be confined to objects of appropriation required by existing laws. This bill, without the amendment proposed by the gentleman from South Carolina, (Mr. McDuffie,) is similar to the one making appropriations for the Indian Department, which has, for several years, been regularly passed. I may ask, sir, why we should, in this case, depart from the usual mode of proceeding, and now bring forward this proposition disconnected from the most important parts of the original measure? I do not complain or find fault with gentlemen for the course they have taken. I am ready to meet the question, by my vote, as promptly, now, as at any other time. Indeed, I am glad, Mr. Chairman, that this measure is thus brought forward, and that it stands before us in its proper form and nakedness, stripped of the pretence of disinterested humanity, which has been thrown around it. It is now presented in its true character, as a measure, not for the benefit of the Indians—not for their civilization and preservation—but for our interest, and only our interest. This appropriation is asked, as

the means to effect measures for the removal of the Indians out of the limits of our States and Territories, that they may, by our aid, trail their bodies into the wilderness, and die where our delicacy and our senses may not be offended by their unburied carcases.

What was the proposition recommended by our late Executive Magistrate? It was for the establishment of a Territorial Government over the Indians, for their preservation and civilization—for their benefit and not for ours. The bill reported at the first session of the last Congress, which I now have in my hand, provided for the location of the Indian tribes somewhere west of the Mississippi River, and north or west of the State of Missouri. It proposed to create all the paraphernalia of a Government, not of the Indians themselves, in which their laws and manners were to prevail, but in which our laws were to be administered by our officers, and enforced by our soldiers. Is the measure now submitted to us by the amendment of the gentleman from South Carolina, (Mr. McDuffie,) the same which was thus recommended by the Executive, and sanctioned by the Committee on Indian Affairs by whom it was brought before Congress, in the bill reported by them to this House? No, sir. That bill, which I supposed would be brought forward, and acted on, is now abandoned by its friends. The measure is strip of its prominent features. The gentlemen who recommended it as a scheme for the benefit of the Indians, no longer place it on that ground. The amendment now offered by the gentleman from South Carolina goes farther, much farther, than the bill and report from the Committee on Indian Affairs, now among the orders of the day. That bill contains, in its provisions, nothing which bears even a resemblance to the grand scheme formerly presented to us. It has dwindled down almost to nothing. It asks less than the sum required for the expenses of holding an ordinary Indian treaty. It only proposes to appropriate \$15,000 to defray the expenses of making an examination of the country west of the Mississippi, by the Indians. But as this proposition now offered, is to supersede that bill, and places the question upon broader grounds involving the whole merits of the proposed measure, we may as well now discuss the question upon its general principles, which go to the foundation of all our Indian relations. So far as the State of Georgia is concerned, we have done forever with the difficulties between that State and the Creeks. It is now a matter of no more interest to Georgia than to Ohio, whether the Indians shall be removed west of the Mississippi or driven into the Gulf of Mexico. The Creeks have ceded to us the last acre of their land in Georgia, and the provision of the treaty, by which the United States were bound to aid them in removing west of the Mississippi, has already expired. I shall therefore consider this question on its broad and general principles.

We are told, sir, that this a measure necessary for the happiness and preservation of the Indians—that we must adopt it, or they will perish, and become extinct as a people. I do not believe this is the only way in which we can save the Indians, or promote their happiness. In my opinion, this measure would effect more rapidly their extinction. Instead of being entitled “An act for the preservation and civilization of the Indian tribes within the United States,” it should be called a scheme for their speedy extermination. If the Indians cannot live on the rich and fertile lands which they now own, they can live nowhere. When gentlemen call upon us to sanction this as a measure of humanity, it may be proper to consider whether the sums necessary to carry into effect this plan, could not be more beneficially expended, by the adoption of a policy which would elevate and improve the Indian character, and secure their happiness, without removing them from their present possessions and homes.

Let us, sir, for a moment, inquire where the Indians are to be removed. We are informed it is intended to plant them west of the Mississippi. This is a pretty extensive region, and we might as well at once send them west of the Rocky Mountains, to people the new territory proposed to be established by an honorable gentleman from Virginia, (Mr FLOYD.) They would there have one advantage, which gentlemen deem of great importance: they would not soon be intruded upon by our citizens and settlements. I am aware that I may be told that I know nothing about the Indians, or the system to be established for their Government, or of the country to which they are to be sent. This may be true. I do not pretend to any great knowledge on the subject, but am willing to learn from others, and to obtain information from those who have brought this measure before us for our sanction. Let me ask these gentlemen if they have examined this country? Do you know whether it is suitable to the circumstances and necessities of the Indians? Their answer is, no; we know nothing about these matters, but first adopt the scheme,—provide that the Indians must remove west of the Mississippi—let us decide that we will drive them from their lands which we want to occupy; and then, sir, we will send our agents and commissioners with the Indians, to examine this country. Our agents can be instructed to pursue such measures as will obtain the consent of the chiefs and head men of the tribes, who can be drilled into acquiescence with our plans. There will be no danger of the failure of the measures, provided our commissioners have in their pockets, a “large amount of means, as an auxiliary aid.”

Such, sir, is substantially the language of this measure. Gentlemen who have talked so loudly of the expenditure of the “contingencies,” and of the corrupting influence of the money and patronage of the Government,

should reflect on this subject. Here they may find a pertinent occasion for their scrutiny. We know that the lands now owned by the Indians are fertile and valuable. It is this which gives activity to our sympathies. But we know nothing of the country to which we propose to remove them. The Secretary of War was called upon by a resolution of this House to give us the specific information possessed by the Department on the subject, and to state “whether the Indians are acquainted with the nature and situation of the country to which they are to be removed; and to what particular district of country west of the Mississippi they ought to be removed?” (See Journal of 1826–7, page 66.)—To these inquiries we received an answer informing us that “the Indians are not acquainted with the nature and situation of the country to which we propose to remove them;” and, “that, as no examination had been made with a view to its occupancy by the tribes now in the States east of the Mississippi, it cannot be known what particular district of country west of Mississippi they ought to occupy.” (See Ex. Doc. 28, of 1826–7.) Such, sir, is our ignorance upon this subject; such is the profound ignorance of those who have pressed this measure upon us. Yet we are zealously called upon by gentlemen to give it the sanction of our approbation.

I will now, Mr. Chairman, examine into the situation of the country which the Indians now possess within the limits of the several States; and into the advantages which they enjoy in their present homes. The Indian lands lying within our borders is that portion of their original possessions which they have never sold or transferred to us, or to any other Government. We are told by one of our sovereign States, while urging upon us her claims to the Indian country within her limits, that it belongs to her, and that she must and she will have it; that we are bound, at all hazards, “and without regard to terms, to procure it.” (See Doc. 102, page 12.) Sir, the same argument may be urged, or rather the same language may be used by all the other States, within the limits of which there is any Indian territory. It was by virtue of the same sovereign right, that the Pope, in the name of St. Peter, gave to Spain all the countries which Columbus discovered. It is the right which power gives, and not justice. Shall we be told that Congress is to disregard the right of the Indians? That the lands on which they now reside shall be taken from them “without regard to terms?” That it is the interest—the determination—the settled policy of the United States, “at all hazards,” to drive them from their country and homes? I hope not, sir; for the honor of my country, I hope not. I may be told that I am unacquainted with the true interest of the Indians, and that they are in the most wretched and miserable situation where they now reside. I will, Mr. Chairman, refer you to the information given to us by the Indian Department, and by

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

the Agents of our Government. The facts stated by these agents, and in the documents to which I will refer, have been frequently reiterated, and if untrue, would long since have been fully disproved. The whole number of the four largest nations within the limits of the States, is stated at more than fifty-four thousand. The Creeks, 20,000; the Cherokees, 9,000; Choctaws, 21,000; and the Chickasaws, 3,625.

It appears, from more recent information, that the number is probably much greater and is rapidly increasing. These Indians enjoy all the advantages which our own citizens in our new States and settlements possess, except the political rights and privileges of which we deprive them. If they are degraded and wretched, I believe it is occasioned by our injustice and oppression. Let us, by extending to them political rights and privileges, and by the influence of education, remove the cause of their moral degradation, and they will soon stand on as high an elevation as that occupied by ourselves. To prove that these Indians are not in the wretched and degraded situation which is stated by many, I will turn the attention of the committee to the document which accompanied the bill formerly reported by the Committee on Indian Affairs. In this document, the Secretary of War informs us, that schools have been established, by the aid of private as well as public donations, for the instruction of their youths. They have been persuaded to abandon the chase—to locate themselves, and become cultivators of the soil. Implements of husbandry and domestic animals have been presented to them, and all of these things have been done, accompanied with professions of disinterested solicitude for their happiness. Yielding to these temptations, some of them have reclaimed the forest, planted their orchards, and erected houses, not only for their abode, but for the administration of justice, and for religious worship. And when they have so done, you send your agent to tell them they must surrender their country to the white man, and recommit themselves to some new desert, and substitute, as the means of their subsistence, the precarious chase for the certainty of cultivation. "I will add," continues the Secretary of War, in another part of this communication, that "the end proposed is the happiness of the Indians; the means of its accomplishment their progressive, and, finally, their complete civilization. The obstacles to success are their ignorance, their prejudices, their repugnance to labor, their wandering propensities, and the uncertainty of the future. I would endeavor to overcome these by schools, by a distribution of land in individual right, by a permanent social establishment, which should require the performance of social duties." (See Ex. Doc. of 1825-'6, Doc. 102.) This, sir, is the language of the Secretary of War, (Mr. Barbour,) a language which does equal honor to the head and to the heart of that distinguished statesman.

Let me now, Mr. Chairman, turn the attention of the committee more directly to the present situation of the several tribes or nations to which I have before referred. What, sir, is the situation of the Cherokee Indians? We are told, in the same document to which I last referred, that, in the Cherokee country, "horses are plenty, and are used for servile purposes. Numerous flocks of sheep, goats, and swine, cover the valleys and hills. On Tennessee and Ustanalla Rivers, Cherokee commerce floats. The climate is delicious and healthy. In the plains and valleys, the soil is rich, producing Indian corn, cotton, tobacco, wheat, oats, indigo, sweet and Irish potatoes. Apple and peach orchards are quite common. Butter and cheese are now on Cherokee tables. There are many public roads in the nation; and houses of entertainment are kept by the natives. Numerous and flourishing villages are seen in every part of the country. Industry and commercial enterprise are extending themselves in every part of the country. Nearly all the merchants in the country are native Cherokees. Agricultural pursuits engage the chief attention of the people. The population is rapidly increasing." "The census taken this year, (1825,) shows that there are 18,568 native citizens; 147 white men and 78 white women are married into the nation; and they have 1,277 African slaves." Are not these people, sir, in the possession of all we propose to give them—of all their warmest friends promise them, in the new home in which they wish to place the Indians? I ask gentlemen, why we should remove them from this situation? It is our interest, and not theirs, which prompts us to this measure, and warms our unasked benevolence into action. What is the situation of the Chickasaw tribe? I will turn gentlemen to the report of the special agent who has just visited this nation. He informs us, that "the population of the Chickasaws may be put down at four thousand. They have increased about four hundred within the last five or six years." He says, "I will suppose the families to average five souls, which will give eight hundred houses. The number of mills, it is believed, does not exceed ten. The workshops I do not think exceed fifty. Their orchards are few and limited in extent. Their fences may be estimated to have cost fifty thousand dollars." Their stock of all kinds, averaging two horses, two cows, and five hogs and a dozen poultry, to each family, this agent estimates at eighty four thousand eight hundred dollars, (see Doc. 2, page 179.) It is to remove these people, who are thus increasing, in a ratio as rapid as the most flourishing part of the United States, from the homes in which they already enjoy so many comforts and advantages, to some happy Elysian fields, that gentlemen have seen in their imagination, but which exist nowhere else, that we are so earnestly solicited to make this appropriation.

The present situation of the Indians, as

proved by the documents to which I have referred, is not worse, in regard to the means which they possess of obtaining subsistence, and the ordinary comforts of domestic life, than that of thousands of our own hardy and independent yeomen, who are the pioneers of a more dense population. Among our own citizens in the new States, we will not find, in a population of four thousand, more than eight hundred houses, ten mills, and fifty workshops. Yet, sir, with all this evidence before us, gentlemen insist that these Indians are a wretched and miserable people, who can be preserved in no other way, than by removing them into the wilderness, to seek their subsistence by pursuing the game of the forest. In my opinion, sir, nothing more is necessary to make them prosperous and happy, than to extend to them the rights of a free people. Make them a portion of the great American family.

Sir, I am in favor of the policy proposed and pursued by the late Secretary of War, (Mr. Calhoun.) The system which he first proposed to Congress, and to the nation, and which had long before been sanctioned by the recommendation of several of our wisest and greatest statesmen, was to extend to them the advantages of civilization, not by driving them from their lands into the wilds of the untrodden forest, but by a system of education, which would teach the Indian, and particularly his children, the pursuits and the habits of civilized man, and thus make his present home more valuable to him. In urging this subject upon the consideration of Congress, Mr. Calhoun says, "it will require the enlightened co-operation of the General Government, and of the States within which the Indians may reside. With zealous and enlightened co-operation it is, however, believed, that all difficulties may be surmounted, and this wretched, but, in many respects, noble race, be ultimately brought within the pale of civilization. Preparatory to so radical a change in our relations towards them, the system of education which has been adopted, ought to be put into extensive and active operation. This is the foundation of all other improvements. It ought gradually to be followed by a plain and simple form of Government, such as has been adopted by the Cherokees. A proper compression of their settlements, and a division of their landed property. By introducing gradually and judiciously those improvements, they will ultimately attain such a state of intelligence, industry, and civilization, as to prepare the way for a complete extension of our laws and authority over them." (Ex. Docs. of 1821-'2 vol. 4, Doc. 59.)

Sir, this is the language and the recommendations of the statesman who lately presided over the War Department with so much distinction. He did not dream of proposing the scheme which is now urged with so much zeal. He wished to provoke no angry collisions in this work of humanity, of justice. Let us banish from our councils the narrow feelings

of self-interest, and give to the Indians a right to the soil which they possess—or, rather, let us have the magnanimity to acknowledge that they have now that right. Let the Indians be the owners of the soil in fee—let the right of individual property be extended to them—let the strong passion awakened in the human bosom by self-interest, be called into action, and they will no longer be a degraded people. They will stand upon the proud eminence of Americans. They will feel no shame on account of their origin. No, sir, it will be to them a source of conscious pride. I might support these views by the opinions of many gentlemen well acquainted with the subject. I will refer to one. Mr. Merriwether, of Georgia, formerly a member of this House, remarked to me, that "the only way to elevate the Indian, is to give him property." He said, "give an Indian a slave, and he at once becomes a man." I say give him property much more valuable—give him the rights of a freeholder and a citizen.

But, sir, we are told that the Indians are oppressed by the encroachments of the white population which surrounds them; that they are trampled on and oppressed by our own citizens. This, sir, is a poor encomium on our people—a wretched compliment to the nation. While we are talking about our justice, our generosity—our feelings of humanity for the Indians—in the same breath we say, that our citizens—that the American people—with ruthless violence and injustice, are trampling the weak remnant of these once powerful nations into dust. If we cannot protect them within the limits of our State Governments, in sight of our courts of justice, and within reach of the arm of the laws, we cannot protect them when placed beyond the reach of our laws, and out of the limits of any organized civil government. Sir, this system, spun out of wild theories, is all a dream—it is an Utopian scheme. If you cannot here stay the oppressing hand of avarice, where will you remove them to be beyond its grasp? Where you propose to plant them, will not our soldiers be placed over them? Will not our people surround them there? Those who now prey upon them as vultures, will follow them to their new abode. There is no place fit for the residence of any civilized people, east of the Rocky Mountains, which has not been visited by American citizens. A few years ago, had the proposition been made to plant the Indian tribes in a remote colony, the spot most likely to have been selected would have been north-west of the Ohio River, or, perhaps, just west of the Alleghany Mountains. I ask gentlemen to reflect on the consequences of this measure. It appears to me to be a scheme by which the extension of our settlements and States is to be limited and restrained, unless you leave the Indians exposed to all the uncertainty, to all the evils, of which you now complain. Their situation will be worse than it now is. In pro-

FEBRUARY, 1838.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

portion to the distance to which you remove your Territorial Government from the seat of the General Government and from its supervising care, you necessarily increase the abuses to which it will be liable. You may hide the oppression of these people from the nation by this measure, but you will not thereby relieve the poor Indians from its weight and consequences.

It is said, sir, that the Indians, while in our vicinity learn only our vices, and that they cannot be civilized here. I ask gentlemen what they will gain by removing them, when the evil is not in the Territory which they inhabit—not in their local situation—but in the relation in which they stand to us? Their condition cannot be improved by the establishment of a military despotism over them. If man can rise to a high state of improvement under these circumstances, where he is taken from half-cultivated fields and placed in a wilderness, and where he had become partially civilized, I confess, sir, that I do not understand the human character. Instead of rising in civilization, he will sink beneath the despotism which makes him little less than your slave, or he will return again to the chase, and take refuge from your power and oppression in the more remote depths of the forest. I do not wish, sir, to preserve the Indians in distinct tribes, or as a separate people. I would as soon propose to plant in our country a colony from the Highlands of Scotland, and to provide that they should always continue to wear the Tartan plaid, and to speak the Highland dialect, as to preserve the Indians among us a distinct people.

Mr. Chairman, I wish to turn the attention of the committee to the expense which will attend this measure. If adopted, whether successful or not, the expense must be incurred. This experiment is to be made at the hazard of human life. The happiness, nay, sir, the existence of one hundred thousand people, depends upon the doubtful success of this untried project. But, if all the arguments and reasons opposed to the scheme and its practicability can be successfully answered, still it may be proper to examine the subject in relation to its demands upon the Treasury, and our disposition to meet these demands. I will not trust to my own conjectures upon this point. I will present to the committee the estimates which are made by the friends and advocates of this scheme, and will then ask gentlemen whether they are prepared to go forward. I will not take into consideration the expenditure necessary to purchase the Indian title to the lands which they still hold in Georgia. This matter has been pressed upon the committee, but I will not stop to examine it. I am ready and willing to fulfil all our obligations to Georgia, so far as we can do so in justice to others, and without the violation of other rights. If, sir, I agree with my neighbor to convey to him a clear title, in fee, for your farm, and you should

obstinately refuse to sell your land to me, what am I to do? Have I a right to turn you off your land, and out of your house, and to seize upon your property? No, sir; I become responsible to my neighbor for the damage he may have sustained. I will forfeit the penalty of my obligation; but your title remains good. I am ready to pay Georgia the penalty of our obligation, if we have violated it. But I will not do flagrant injustice to the Indians, even to gratify a sovereign State.

The estimate now presented to us of the expense of removing the Chickasaw nation of 4,000 persons, amounts to nearly half a million. This embraces the sum proposed to be paid for their houses, farms, shops, horses, and other articles of personal property; and if we calculate that the farms, houses, and property, of the other tribes, is as valuable, in proportion to their numbers, as that of the Chickasaws, it will require more than six millions of dollars for this part of the expense. The estimate made for the subsistence of the emigrating Creeks, is twenty cents per day, or \$73 per annum for each individual. The amount of this item of the expense would be about four millions of dollars. Thus we have the sum of more than ten millions of dollars as a commencement; without including "contingencies;" and the whole expense of supporting the Government to be created in this new territory; and the army to be sustained for its defence;—without adding the sum necessary for the establishment of schools and other means of education. This is not my calculation. It is furnished to us by the Indian Bureau; by the friends of this scheme—as the foundation or data upon which we are to make this appropriation. I refer gentlemen who wish to examine this subject in detail, to the report of the commissioners sent to treat with the Chickasaws and Choctaws in 1836, printed by the Senate, pages 18 and 14; and to the document accompanying the President's message, page 179; also, to document 44, page 6. I ask in behalf of the Indians only for a pittance of these enormous sums, to be expended in establishing schools among the Indians, in teaching them the pursuits of agriculture and the mechanical arts, and in establishing proper regulations for their government, and for the distribution and security of their property. Sir, in the language of the late Secretary of War, let "the system which has been adopted, be put into extensive and active operation," and the result will be infinitely more honorable to us; the prosperity and happiness of the Indians will be more effectually promoted and secured, than by any new invention for their benefit.

Before we carry the eighty thousand Indians, now on this side of the Mississippi, over that river, I conjure gentlemen to look at the situation of the two hundred thousand which are already there. I ask the friends of this measure to prove the correctness of their theory, by



organizing these tribes under their new system of Government, by teaching them to respect your laws, and by learning them to pursue the occupations, and adopt the laws and habits of civilized man. Let gentlemen do this, and come with the evidence of their success, and I will then believe in their theory; I will then vote for this measure. But, sir, while I know and have the evidence before me, to prove that the most powerful of the Indian nations, now west of the Mississippi, living upon the very territory to which these are to be removed, are still more miserable and destitute than the most degraded of those for whose benefit gentlemen are urging us to adopt this measure, I will not consent to drive the eighty thousand now among us, enjoying the comforts of their homes and native land, into the country, where they can meet nothing but death, either by the hand of their enemies or by the lingering sufferings of famine. Our utmost efforts could not preserve them in this wilderness, which is already filled with all the horrors of Indian wretchedness. The Indians already in that region are enjoying the fruits of our benevolence and humanity, by an accumulation of misery and suffering beyond a parallel. Sir, I draw no imaginary picture. I cannot portray, in language sufficiently strong, the wretchedness of these people, now west of the Mississippi, where we promise their brethren "a last home," where they may flourish in peace and happiness! I will read to the committee an extract of a letter from Gov. Clark, Superintendent of the Indians west of the Mississippi. He says, "the situation of the Indians west of the Mississippi is the most pitiable that can be imagined. During several seasons in every year they are distressed by famine, of which many die for want of food, and during which the living child is often buried with the dead mother, because none can spare it as much food as would sustain it through its helpless infancy. This description applies to the Sioux, Osagee, and many others; but I mention these, because they are powerful tribes, and live near our borders; and my official station enables me to know the exact truth. It is in vain to talk to people in this situation about learning and religion. They want a regular supply of food; and until this is obtained, the operations of the mind must take the instinct of mere animals, and be confined to warding off hunger and cold."

Mr. McLEAN, of Ohio, Chairman of the Committee on Indian Affairs, said, that it was with great reluctance, and unaffected embarrassment, that he rose at that late hour of the day, after the already protracted discussion, to which the subject had unexpectedly given rise, to throw himself upon the indulgence of the committee, knowing, as he did, that every member was more anxious the question should be taken, than to hear further debate. I, however, feel myself called upon, said Mr. McL., by the peculiar situation in which I stand in

relation to this measure, as a member of the Committee on Indian Affairs, who have recommended its adoption, to submit a few remarks, and as far as in my power, to answer some of the arguments and allegations which have fallen from my colleague, (Mr. Woods), who has just resumed his seat. Great complaint has been made in relation to the manner in which this subject is presented for discussion, and imputations have been thrown out against the Committee on Indian Affairs, for having (as gentlemen suppose) been instrumental in calling forth this debate in an incidental way, upon an ordinary appropriation bill. Sir, if this be objectionable, the Committee on Indian Affairs are not responsible for it. The Department of War transmitted to the House an estimate of the amount which would be required during the present year for Indian purposes; those estimates, and the documents accompanying them, were referred to the Committee of Ways and Means, whose peculiar province it is, under the rules of the House, to report all bills of ordinary appropriation, and that committee reported the bill now under consideration, leaving out, however, certain items contained in it, and called for by the estimates, which they very correctly thought proper to refer to the Committee of Indian Affairs, who were instructed by a resolution of the House to make a special report thereon. Those items are in part contained in the general estimates from the Treasury Department, and which are particularly specified in the document marked "submitted," amounting to 25,124 dollars. The Department of War also asked an appropriation of one hundred thousand dollars to defray the expenses of the emigrating Creek Indians, and the further sum of fifty thousand dollars to aid other emigrating Indians. The Committee on Indian Affairs, after a full investigation of the subject, were unanimously of opinion, that all the appropriations asked for in the estimates ought to be made, except the item for the emigrating Creek Indians; and believing, that, with proper economy, half the amount asked for that object might be made to answer the end proposed, they, accordingly, in obedience to the order of the House, made a special report, which was referred to the Committee on Ways and Means, and in doing this, the duty of the Committee on Indian Affairs terminated. I had no knowledge of the intention of the Committee of Ways and Means, to move to attach those items to the ordinary appropriation bill; consequently, the present debate has risen most unexpectedly to me, and I am as much taken by surprise, as any other member can be. I, however, can see no objection to the course pursued. The subject is one of great importance, but it might as well be acted upon and determined now as at any other time.

In relation to the appropriation now required to aid the Creeks in their removal west of the Mississippi, no objections can be made. It is but the fulfilment of a solemn obligation en-

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

tared into with them, on the part of this Government, by treaty stipulations. A part of that nation of Indians have already gone, and several hundred of them are now on their way to their place of destination, and the United States have expressly agreed to defray all their expenses in their emigration, and to make provision for them at least twelve months after their arrival at their new homes, and also to furnish them with such domestic animals and implements of husbandry, as the President, in his discretion, may think proper.

I will now submit a few remarks in relation to the expediency and necessity of the proposed appropriation, to be placed at the disposition of the Executive, for the purpose of enabling him to extinguish the title of the Cherokee Indians, to any lands within the limits of the State of Georgia, whenever it can be done upon "reasonable and peaceable terms," and to aid the said Cherokees and such other Indians as may be disposed to emigrate west of the Mississippi. The Committee on Indian Affairs, on adverting to the compact between the United States and the State of Georgia, and having been instructed, by a resolution of this House, to inquire into the subject, and to make report thereon, could not hesitate as to the proper course to be pursued; they believed that, in good faith to the citizens of Georgia, it was the duty of the Government always to hold itself in readiness to comply with the provisions of the compact, which expressly requires that the Indian title shall be extinguished whenever it can be done upon "reasonable and peaceable terms." The committee also believed that the request of the War Department to have funds placed at their disposition to aid such other Indians as might be disposed to emigrate, was reasonable and expedient; and, for myself, I am utterly opposed to depriving the Indians of their present homes, unless provision shall be made for them elsewhere.

Mr. Chairman: The subject of the colonization of the Indians beyond the limits of our States and Territories, west of the Mississippi, has long since been presented for the consideration of the American people, and, however visionary the scheme may appear to some gentlemen, of one thing I am thoroughly convinced, that it had its origin in the best feelings of the human heart. It was first, in an official way, presented for the consideration of Congress, by Mr. Monroe, late President of the United States; it was approved, and strongly pressed upon their attention, by Mr. Calhoun, then Secretary of War, and the same policy appears to have met the approbation of the present Administration. Governor Barbour, the now Secretary of War, furnished this House, through the Committee on Indian Affairs, three years ago, with a bill prescribing a form of government for this Indian colony, accompanied by a detached report, which I will say, as others have said, did honor to his head and heart. I confess, sir, for myself, that I have never, in

my life, attempted to investigate any subject, in which I have found so much difficulty in coming to a conclusion. The question is asked, why have not the Committee on Indian Affairs reported to this House the bill to which I have just alluded, providing a form of government for the Indians? I answer, for myself, that although I am strongly inclined to believe it to be the best policy that can be pursued, in reference to this unfortunate race of people, yet I am not prepared to say it shall be adopted. I want further information; I wish to know something more in relation to the country in which it is proposed to settle them. I wish the Indians, themselves, to have an opportunity of examining the soil, the climate, and every thing connected with it, and to be fully satisfied, before I would ask them to abandon their present habitations. The attention of the Committee on Indian Affairs was particularly directed to this subject, not only by the correspondence of the special agent, to whom allusion has been made, but by various resolutions of this House, at an early day of the present session, instructing them to make report thereon. The committee, after the most mature deliberation, made their report in favor of the expediency of making an appropriation to afford the Indians an opportunity of exploring the country, which it is proposed to offer them, in exchange for their lands within the limits of the States and Territories; and, as the Chickasaw nation, in particular, had made or acceded to propositions of this nature, the committee reported a bill, making an appropriation, for the amount estimated by the Department as sufficient to enable them, and also such other tribes as might be disposed to explore the country, to do so, and authorizing the President to appoint, and send with them, suitable persons, who could, on their return, furnish such information as would enable Congress to legislate understandingly upon the subject. That bill, accompanied by a detailed report, showing the views of the committee, and fully explaining the object contemplated, was printed and laid upon the table of every member, and need not, by me, be now repeated.

Mr. Chairman: as I before said, if, on a full examination of the country west of the Mississippi, beyond the limits of our States and Territories, it should be found well adapted to the Indians, and the Government can obtain a title to it; and if the Indians should freely and voluntarily choose to go: I say give it to them, in exchange for theirs: and let them understand it is to be their permanent home: that it is theirs forever: afford them the means of removing to it: aid them in every shape and form: furnish them with the necessary implements of husbandry: teach them, as far as possible, the arts and sciences: establish schools among them: give them a form of Government, suited to their condition: distribute their lands among them individually, by metes and bounds: in short, endeavor to in-

spire them with a desire for civilization: but if, on the contrary, the country should be found unsuited to them; or, if they should be disinclined to change their residence; then I would say renew your exertions in their behalf, where they now are. Sir, it has, however, been said, that many of the Indians are now in a flourishing condition; that they have their mills, their comfortable dwellings, and smiling fields; this may be true, in reference to a few individuals of a solitary tribe: but we all know, that more than nine-tenths of them are, even at this hour, in a most wretched and pitiable condition. If I am not a stranger to the feelings of my own heart, I would do nothing in reference to this people, that shall not, in my best judgment, be calculated to promote their present and eternal interest;—and those gentlemen who differ from me in opinion, will, I trust, at least do me the justice to believe, that, if I am in error, it is an error of the head, and not of the heart. In all my acts of legislation, I will endeavor to keep an eye single to their welfare.

The vast expense which would accrue to the United States by the removal and colonization of the Indians, has been urged as an argument against the policy; but I believe it would be no difficult task to prove, did time permit, that it would be to the pecuniary interest of the Government. I will not, however, on this occasion, weary the patience of the committee by entering upon this topic. I must be permitted, before I sit down, to say, that, however visionary the scheme may by some be considered, it has for its advocates all the superintendents, agents, missionaries, and teachers of schools, among them, in every section of the country, almost without an exception; and I confess this circumstance has had great influence upon my mind; we know that, in giving their opinions in favor of the measure, they are actuated by the most patriotic motives; for it is directly opposed to their pecuniary interest.

I have letters and other evidence in my possession, from the most intelligent superintendents, agents, and missionaries, all urging and pressing this subject in the strongest possible language, and all giving it as their decided opinion, that there is no other salvation for the Indians. One word more in relation to the particular item of appropriation now under consideration, and I shall have done. If it be deemed proper to place the means at the disposition of the President of the United States to extinguish the title of the Cherokees to their land in the State of Georgia, then it will be certainly necessary to furnish them with another home, and to aid them in going to it. Other Indians, as I have already shown, have been long since induced by the Government to remove west of the Mississippi, some of whom are now on their way, in the most deplorable condition, unable to reach their places of destination without assistance; and I now hold in my hand a letter, just received from

Governor Clark, of Missouri, representing the suffering condition of some of those Indians, and making an appeal to Congress to aid them, which he who can resist, must possess a heart more hard than mine. I will ask the Clerk to read it, and then leave the committee to determine the subject, feeling a consciousness of having, as far as in my power, discharged what I considered an indispensable duty.

WEDNESDAY, February 20.

*Improvement of the River Wabash.*

On motion of Mr. BLAKE, it was

*Resolved*, That the Committee on Roads and Canals be instructed to inquire into the expediency of making an appropriation to deepen and improve the channel of the river Wabash, at the Grand Rapids below Vincennes.

In offering this resolution, Mr. BLAKE said that he deemed it proper, before the question was taken, to trespass on the House for a moment, by submitting some remarks in relation to it. I am induced to do this, he said, not for the purpose of promoting the passage of the resolution and the reference of the subject to the committee, for, in this particular, I trust to the courtesy and practice of the House; but to impress it on the minds of that committee, if any of its members should be within the hearing of my voice, that I am altogether serious in the application I have made, and that the subject is well entitled to a portion of their time and consideration. Sir, the Grand Rapids of the Wabash are about twenty miles below Vincennes, and about a hundred from the mouth of the river; and at this point, the river is the boundary between the two Governments of Indiana and Illinois. Below the rapids, the navigation is generally good, and above them, it is equally good for the distance of nearly three hundred miles. The contiguous soil through this whole extent of navigation, with but little exception, belongs mutually to the Federal Government and the citizen, and in fertility and productiveness, is probably not exceeded by any on the globe. Now, sir, it not unfrequently happens that steamboats and craft destined for Vincennes and other places of importance, ascend the river as far as this point, and cannot proceed farther; and what is worse, infinitely worse, the freighted boat of the enterprising citizen is often stopped on its way to a Southern market; and he is compelled to remain there pining away under the expectation of a rise of water, not only losing the benefit of a prompt arrival at his place of destination, but, in the mean time, his cargo of corn and pork is spoiling, and his all rapidly disappearing.

These obstructions, as it is said by gentlemen who have been employed for the express purpose of ascertaining, can be easily removed, so as to create a good and sufficient channel, by a comparatively trifling expense. They are occasioned by rocks of a soft, shelly substance,

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

extending across, and, for a short distance, along the river, and the sum of three or four thousand dollars, judiciously expended, it is believed, would enable us to effect the very desirable object. And, sir, permit me to ask, why should the treasure of the nation be expended in the improvement of the Ohio and the Mississippi, when their important tributaries are neglected, and permitted to remain in their natural condition? Our western waters, in their impetuous career to salute the king of rivers, should be made to take with them the rich presents of the products of the interior.

Sir, if there is any portion of the West entitled to the especial attention and guardianship of Congress, the particular district of country I now speak of, may safely present its claims in comparison. From the time that the gallant General Clark first came to their succor, and planted his standard upon the battlements of Vincennes; from that time down to the present, its citizens, and the highly respectable and hardy yeomanry in the neighborhood, have sustained one uniform character for fidelity and zeal, and a sensitive regard for the honor of the nation. They have stood the brunt of wars, both against a civilized and a savage foe. Their ancient town has been for many years the rallying point of emigrants to the West; and it may justly be considered as the maternal source from which has spread a population which now covers the region of the Wabash. But, sir, I believe I am indebted to the indulgence of the Chair, that I am, in some degree, trespassing on your rules, by detaining the House on a mere question of reference. It is a subject about which I entertain fixed and lively feelings, and about which I have before exerted myself, in my humble way, when acting on another theatre of public life.

*Indian Appropriations—Emigration of Indians.*

The House then again went into Committee of the Whole, and resumed the consideration of the Indian appropriation bill.

The following amendment, yesterday moved by Mr. VINTOX, being under consideration:

"Provided, That no Indian or Indians, north of latitude 36 degrees 30 minutes, shall be aided in removing south of that degree; nor shall any Indian or Indians, living south of said degree of latitude, be aided in emigrating north thereof."

Mr. VINTOX said, that, when he yesterday submitted the amendment now under consideration, he remarked, that, for some time past, he had observed, with some attention and much interest, the progress of the proposed measure of Indian emigration, which had been recently brought before the House in a great variety of forms. That he thought he could discern, gradually and silently collecting, the elements of serious discontent among the States; and that, unless means were devised to dissipate the gathering tempest, the time was not far distant,

when it would burst upon us. To point out the threatened danger, it will be necessary, (Mr. V. said) to advert to the state of things in the Western and Southwestern States and Territories; and to give some account of what has been done towards a removal of the Indians beyond the Mississippi.

It so happens, said Mr. V., that various tribes of Indians inhabit greater or less portions of these States; which shut out the white population from their Territory, and thus cut off from improvement so much of these States as the Indian country embraces. All the States feel a strong and very natural desire to increase their population; and from this cause, more than from any other single circumstance, the Indians are everywhere regarded as a burthen, which all are anxious to throw off as soon as possible. And hence, the great efforts that are constantly made, here and elsewhere, to possess ourselves of the remnant of their country, and push them before us into the wilderness. Extensive regions of country, in a state of nature, are still to be found beyond the inhabited parts of the Western and Southwestern States and Territories, to the peopling of which, it is not to be disguised, each of these sections of country look forward, with deep interest, as the certain means of great accession to their positive power at home, and to their relative power and consequence in the Union. Any legislation here, having a tendency to defeat these certain, though somewhat distant results, cannot but excite the decided opposition of the section of country so to be affected.

In a Government organized as ours is, surrenders of this sort are not to be claimed; nor can they be taken without injustice, and, consequently, without danger. Hence, it must be obvious, that, if, in the prosecution of the proposed plan of removing and colonizing the Indians, you transfer them from one section, thereby relieving it from its pressure, and put them down upon the other, thereby adding to the pressure the latter already feels: or, if you transfer them from one section to the uninhabited regions adjacent to the other, and thus enlarge the sources of the future, but certain power and wealth of the former, at the expense of the latter—discontent and angry collision must inevitably spring up. Not to expect this result, is to shut our eyes upon all history, and upon the fixed laws and motives of human action. To the friends of this plan, it cannot but be apparent, that if these collisions do spring up, the efforts of humanity, in behalf of this unfortunate race, will be paralyzed, and perhaps, put down forever. The amendment now under consideration is intended to avert the consequences I have pointed out, by causing the Indians to move forward on the same parallels of latitude they now live on. Such a movement would lead the Indians in the Southwest into the extensive unsettled country beyond the Territory of Arkansas, and those of the Northwest into the uninhabited parts above

and beyond the State of Missouri. They cannot be removed in any other direction, without subjecting one section of the country to the dangers and pressure from which another is relieved. Any attempt, for example, to transfer the hordes of the Northwest into the Southwest, or into the unsettled country bordering on the Southwest, would be resisted by the latter, as unjust and oppressive, especially if the transfer were to be accompanied by the guarantees and solemn pledges of the Government, (which form so prominent and important a feature in this plan of emigration,) "that the country to which they went should never be purchased of them, nor peopled by the whites." A similar lodgment of the Indians of the Southwest in the Northwest, cannot fail to excite opposition, sufficiently powerful, to bring about the final failure of the whole plan. That such a lodgment of the Southwestern Indians is in contemplation, I shall undertake to show is indicated by the preliminary steps that have been taken, and by the more direct avowal of gentlemen on this floor, since the opening of the present debate. And here, Mr. Chairman, it may be well enough to go into a short review of the progress and modifications of the idea of Indian civilization, for some years past; from which it will be more easy to discern its real aspect and tendency at the present time.

In the year 1816, Mr. Crawford, then Secretary of War, made a report to the Senate, in which, among other valuable suggestions, he recommends the extension of our laws over the Aborigines within our limits, under such modifications as might be adapted to their circumstances. This report attracted much notice at the time; but no steps were taken to carry this part of its recommendations into effect. Here the matter rested until 1820, when Mr. Calhoun, then Secretary of War, made a report to Congress, (Ex. Doc. 46, 1st sess. 16th Cong.,) in which, after giving a highly flattering account of the progress of Indian improvement, under the influence of the means adopted by Congress, and by individuals, for their education, he also recommends the gradual extension of our laws over them, as the only means of effecting their civilization. Again: in 1822, Mr. Calhoun makes another report (Ex. Doc. 59, 1st sess. 17th Cong.) giving a like flattering account of the prospects and improvements of the Indians, and renews his recommendation to extend our laws and protection over them. Up to the year 1825, we continued to receive the most encouraging accounts of the improvement and promising prospects of these people. The friends of humanity, relying upon the accuracy of this information, everywhere took courage. As yet, no great movement of the Indians beyond the Mississippi had been recommended by the Executive, or thought of by the nation. So far from it, the seed of civilization had been planted and sprung up in their native soil—where this tender plant daily grew, and promised ere long the happiest fruits under the

delicate and skilful cultivation of Christian and public benevolence. In the mean time, great changes were going on among ourselves. Flourishing States and communities had suddenly risen up in the neighborhood and around the Indians, whose territory presented a barrier to our advancing population.

The very prosperity of our settlements created a strong desire in them to remove the Indians from their vicinity, which manifested itself in almost daily applications to the Executive and to Congress for the extinguishment of the Indian title. With the State of Georgia the Government had become involved in a very delicate and embarrassing controversy. Perplexed by Georgia and pressed on all sides by the importunities of the new States to extinguish the small remaining remnant of Indian territory within their limits, the Executive sought by a great effort to give itself relief. At this crisis, Mr. Monroe sent in a message to Congress, breathing the language of the purest benevolence, but which, I hesitate not to say, proposes the boldest experiment upon human life, and human happiness, that is to be found in the history of the world. It proposes to take a whole people, nay, more, the remnant of forty nations, from their abodes, and place them down in the recesses of a distant and forbidding wilderness, and there, after creating a Government over them, to reform, amalgamate, and civilize them. This message, sir, in my opinion, had its origin in the circumstances by which the Executive was then surrounded, and not in any well-founded conviction of the practicability of the plan, deduced from facts or experience. I feel myself justified in coming to this conclusion, from the fact, that, when a call was made upon the Executive for information concerning the leading provisions of the bill of the last session based upon that recommendation, the answer disclosed to the House a total want of all facts and data, in support of it. Indeed, so striking and obvious was the deficiency of information, upon which to base so great a measure, that, though much anxiety had been previously manifested to call it up, at an early day of the session, yet, after the answer to the call came in, no attempt was made to call up the bill, nor any desire evinced by its friends to move it. The message of 1825 was accompanied by a communication from Mr. Calhoun, going, in detail, into the proposed plan of removal, and, among other things, makes a distribution of the western country, beyond the settlements, among the various tribes of Indians inhabiting the country within them. I shall have occasion, before I sit down, to call the attention of the committee again to this document, to which I now refer, for the sole purpose of showing what disposition Mr. Calhoun proposed to make of the tribes in the Southwest. He says: "Of the four Southern tribes, two of them, the Cherokees and Choctaws, have already allotted to them a tract of country west of the Mississippi. That which has been allotted to the

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

latter, is believed to be sufficiently ample for the whole nation, should they emigrate; and if an arrangement which is believed not to be impracticable, could be made between them and the Chickasaws, who are their neighbors, and of similar habits and dispositions, it would be sufficient for the accommodation of both. A sufficient country should be reserved, to the west of the Cherokees, on the Arkansas, as a means of exchange with those who remain on the east. To the Creeks might be allotted a country between the Arkansas and Canadian River, which limits the Northern boundary of the Choctaw possessions in that quarter." At the next session (the first session of the last Congress) an act was passed to authorize the President to hold a treaty with the Choctaws and Chickasaws, (certain tribes of Indians living in Alabama and Mississippi,) and to provide for their removal west of the river Mississippi. When the bill was under discussion, the inquiry was then made to know to what district of country, west of the Mississippi, it was in contemplation to remove them. It was then said, they were to be removed west of Arkansas. But, sir, how did the fact turn out? A commission was appointed to go and treat with them. The commissioners first went to the Choctaws, and after making to them the most unprecedented proposals, one item of which was, a million of dollars for their lands, utterly failed to treat, in consequence of the decided and unyielding refusal of the Indians to sell their country. They then went to the Chickasaws, with whom they were equally unsuccessful. To them, they proposed, among other things, to exchange their country for a like quantity of country north and west of Missouri. This they refused. These Indians were then further pressed, as a last resort, to send a deputation, under the pay of the United States, to explore the country—not in the west—no, sir, but more than a thousand miles north of their present abodes. To this proposition, also, they gave a decided negative, and expressed, in the strongest terms, to the commissioners, their desire that they might not be again solicited to part with any portion of their country, with which they were contented, and desirous to live upon it in peace and quiet. But, notwithstanding all this, it appears, from a document laid upon our tables during the present session, that the chief clerk of the Indian Department was, within a twelvemonth after, sent among them again, to feel out their disposition on this delicate subject of selling their country, and going into some inhospitable wilderness. What did he do? Did he propose to them to emigrate to the west of Arkansas, and unite themselves with the Choctaws, on that side of the Mississippi, where Mr. Calhoun says, in the document I have already read from, there is land enough for both tribes? No, sir; he renews the proposition of the preceding year, for them to remove North of Missouri. He enters into a sort of unofficial, or rather unauthorized,

Vol. X.—3

arrangement with them, on the subject of a removal—the most prominent provision of which is a stipulation, that the United States shall never re-purchase nor settle the country proposed to be given to them, and that all the whites now in the country shall be driven out of it. The gentleman from Georgia, who sits at the left, (Mr. LUMPKIN,) took occasion, on an early day in the session, to speak in terms of marked approbation of Col. McKenney's report of his proceedings on this mission, whence I infer, that gentleman is not only in favor of removing the Indians, but that he is for sending those of the Southwest into the Northwest. The delegate from Florida, who is ever attentive to the interests of his constituents, has said, since the present bill has been under discussion, that it was the intention of Government to send the Indians north of Arkansas and west of Missouri, and gave the committee to understand, that, if a proposition of the gentleman from Mississippi, then under consideration, should be adopted, he should follow it up by a proposition for the removal of the Indians of Florida into that country; assigning, as a reason for the removal, that, pressed by hunger, they had broken out of their country, and were plundering and robbing his constituents. With these indications of the direction about to be given to the proposed measure of emigration, I feel myself bound, as one of the Representatives of the West, to urge the proposed amendment upon the committee; and I feel assured, that, if gentlemen from the Southwest are anxious for this measure for the good of the Indians alone, and do not intend, as a part of the operation, to relieve themselves of their Indians, and throw them upon the frontier of the West, they will give to this proposition a ready and willing support—a proposition, the justice, fairness, and reciprocal equity of which, no gentleman can deny. It proposes to them to do as they would be done by.

Before I proceed to an examination of the effects of the proposed plan of emigration, upon the western country, as well as upon the Indians themselves, I must beg leave, Mr. Chairman, to call the attention of the committee again to the report of the Secretary of War, which accompanied the Message of 1825. When the plan there marked out is understood by the people of the western country, it will fill them with alarm. And here, permit me, for a moment, to point out some of its leading features. It proposes, for the purpose of preserving the Indians from the effects of being brought in contact with our people, to give them a solemn guarantee that they shall not be disturbed by the encroachment of our citizens upon them, and that the Government shall never extinguish their title to the country to which they may remove, and which, under the faith of this Government, solemnly pledged, they are forever to occupy as a perpetual home. Under this pledge, it proposes to remove the Southwestern Indians in the direction already

stated, when I first adverted to the report. Those of Arkansas and Missouri to be moved forward beyond their boundaries; while it is proposed to transfer those of Illinois, Indiana, Ohio, and the Peninsula of Michigan, into the country north of Illinois, and west of Lake Michigan. And last of all, as appears from the Message, separate Governments are to be instituted over each tribe, (about forty in number,) and a General Government, for the regulation of the whole, is to be established over the vast extent of country thus to be apportioned among these various hordes of Indians. These are the leading features of the great plan of Indian civilization and Indian colonization, as originally recommended by the Executive of the country. Let us add to it, the modification which gentlemen seem now to have in contemplation, that of removing the Indians of the Southwest upon the frontier of the Northwest, and then, sir, let us pause for a moment to survey the condition of the western country, and the incalculable consequences that must result to it, to the Union, and to the Indians.

Such a disposition of the Indians greatly endangers the security of the whole western frontier, and renders the condition of Missouri, in particular, imminently perilous. If you succeed in the plan of civilization, the increase of population and moral power that must necessarily result from the success of the measure, added to their preservation as a distinct race of men, and the great extent of country occupied by them, must, unavoidably, bring about the establishment of a Government independent of our own. Sir, I will not speculate upon the consequences that would follow. Suffice it to say, that no lover of his country would subject it to such imminent peril. If you even incorporated them into this confederacy, from the moment their numbers and moral power had risen up to the point of ability to resist, you could not prevent their separation another hour. Between distinct races of men, passions and interests enough to effect this would ever be found ready at hand. But, suppose the experiment to civilize them should fail—as I shall undertake, before I sit down, to show it must—what then would be the situation of the western frontier? Whenever you might happen to be at war with either England or Mexico, or both together, all of which may occur, at least within the range of possibility, not to say probability, in the progress of our history, the enemy has a cordon of savages, extending from the Canadian to the Mexican line. I say the enemy, because while the savage lives on the frontier, you will always find him the enemy; and for this there is no remedy, but to surround and hem him in by your population. The extent of the shocking atrocities that would follow this state of things, no man can estimate. Place around Missouri on the north and west, in conjunction with the two hundred thousand that would be there besides, the sixty or seventy thousand Indians of the Southwest, and what have you

done! You have executed, by a single movement, the great plan of Tecumseh, that carried terror and dismay to every cabin beyond the Alleghanies. It was upon these same Indians of the South, that he mainly relied. With them he labored to bring about a concentration of Indian power, not for the purpose of civilization, but to resist and arrest the march of your population, and then to draw a perpetual line of separation between them and us. The savages, by this arrangement, rendered formidable in numbers, and still more so from famine and geographical position, the frontier inhabitants of Missouri would be subject to constant pillage in peace, and the most horrid atrocities in war. Nor, indeed, would the frontier settlers of Illinois and those of the Peninsula of Michigan, be in a situation much more enviable. If the name and the prowess of Tecumseh are so far forgotten here, as to induce us, voluntarily, to concentrate the whole Indian power on the frontier, it is far otherwise in the West—they are not forgotten there. I think, Mr. Chairman, I hazard nothing in saying, that, when at war with either England or Mexico, the whole Indian power would raise the tomahawk and scalping knife against us. The history of the past gives almost certain monition of the future. We have ever found them in alliance against us, and we ever shall, at every favorable opportunity, while they have strength to make an effort for their existence. Their policy towards us has been, and will be, in time to come, the policy of nature and feeling. They know full well that we are the cause of all their calamities, and that, from us alone, they have any thing to fear. The past, the present, and the future, are ever open to their view. When they look back to the Atlantic, and, in the language of the gentleman from Indiana, (Mr. SMITH,) recall to mind, "that they have been driven from river to river, and from hill to hill, until they have scarce a standing place left," and still see the rising tide of our population sweeping over them with accumulated force, it is natural they should seize upon every opportunity that promises, even by possibility, to arrest their threatened destiny: they will do it, and we deceive ourselves if we think otherwise. But, sir, the consequences to the West, do not terminate with putting in jeopardy its peace and security. Try this experiment of colonization upon the plan proposed, with the proffered pledges and guarantees, and, of all the boundless regions of the West, the Peninsula of Michigan alone would be left, to increase the number of the Western States.

But, Mr. Chairman, passing from this topic, let me direct your attention to the appropriation now proposed by the gentleman from South Carolina, and to which the amendment now under consideration applies. The appropriation is asked for, for the avowed purpose of extinguishing the title to the Cherokee lands in Georgia, and to aid in the removal of the Cherokees and other Indians, on this side the Mississippi,



FEBRUARY, 1823.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

to the country west of that river. Gentlemen have said that this procedure is in accord with the established policy of the Government, and that humanity requires, at our hands, the prosecution of that policy. I shall undertake to show, that gentlemen are mistaken in both these propositions. They appeal to the message of 1825, heretofore spoken of, and profess to act upon it, as the basis of the policy now proposed. I am yet to learn, that, when the Executive sends a communication to Congress, recommending legislation on any subject, it is, therefore, to be considered the policy of the Government, until it is sanctioned here. If we look into the subject, it will be seen, that gentlemen are going directly counter to that message. Mr. Monroe, it is true, recommends the removal of the Indians; but he also recommends, in the most impressive manner that not a single step shall be taken towards its accomplishment, until certain preliminary legislation, of the utmost moment to secure their safety, is adopted by Congress. Let me call the attention of the committee to those passages in the message, which contain a general specification of its object, and recommend the mode of its accomplishment.

Mr. Monroe says, "the great object to be accomplished, is the removal of these tribes to the territory designated, on conditions which shall be satisfactory to themselves, and honorable to the United States. This can be done only by conveying to each tribe a good title to an adequate portion of land, to which it may consent to remove; and by providing for it there, a system of internal government, which shall protect their property from invasion; and by the regular progress of improvement and civilization, prevent that degeneracy, which has generally marked the transition from the one to the other state. The digest of such a Government, with the consent of the Indians, which should be endowed with sufficient power to meet all the objects contemplated to connect the several tribes together in a bond of amity; to preserve order in each: to prevent intrusion on their property: to teach them, by regular instructions, the arts of civilized life, and make them a civilized people, is an object of very high importance. It is the powerful consideration which we have to offer to these tribes, as an inducement to relinquish the lands on which they now reside; and to move to those which are designated. With a view to this important object, I recommend it to Congress to adopt, by solemn declaration, certain fundamental principles, in accord with those above suggested, as the basis of such arrangements as may be entered into with the several tribes, to the strict observance of which, the faith of the nation shall be pledged. I recommend it, also, to Congress, to provide by law for the appointment of a suitable number of commissioners, who shall, under the direction of the President, be authorized to visit and explain to the several tribes the objects of the Government; and to

make with them, according to their instructions, such arrangements as shall be best calculated to carry those objects into effect."

No digest of Government, or fundamental principles, as here recommended, have been adopted by Congress, as the basis of the arrangements with them in this very important matter to them, as well as to ourselves. In the place of it, we are now presented with this appropriation to allure them across the Mississippi, as fast as possible; and the Chairman of the Committee on Indian Affairs tells us, that a digest of a Government will be brought forward at some future time; but not at the present session, if I understand him right. It cannot be the intention of gentlemen to send them beyond the Mississippi, and then leave them to their fate. But it requires no spirit of prophecy to foretell, that, if they are first taken there, no Government will ever be provided for them afterwards. To carry such a measure through this House, as the organization of a Colonial Government, founded on new principles, will always be a great and difficult work. The policy we are now asked to adopt, of removing them without any previous governmental arrangement for their future regulation, will, if pursued, result in carrying them forward, at a single movement, almost half way to that ocean in which there is too much cause to fear they are destined, ultimately, to terminate their existence and their miseries together. Sir, if we move at all, let us enter upon this business at the beginning. Before they are pushed forward into the wilderness, and there left to anarchy and want, let us present them with an outline, at least, of the Government we intend to institute over them. If their consent is to be obtained, or feelings consulted in this matter, it is surely of some moment to them, when they are about to commit themselves to our hands, to know what laws we intend to impose upon them, as well as the country to which they are to be removed. Within a few years, we have removed some Indian tribes in the mode now proposed, and before we go further, we ought to pause over the miseries and sufferings we have already inflicted upon them. It is our bounden duty to make ample provision to alleviate the distresses of these miserable victims of our cupidity and avarice. Thus far this or any other necessary appropriation shall have my hearty support. But such have been their sufferings, that in my opinion, it would dishonor this House to go a single step further in this work of desolation, until ample and certain means are first provided to prevent a recurrence of similar calamities. Commissioners were sent in the year 1824, to treat with the Florida Indians for their country, who were living in the heart of that Territory in plenty and content. We proposed to send them into the peninsula of Florida; they told us they could not live there, and intreated us to leave them in the enjoyment of their homes, and declared, "that nothing short of force could compel them to



go"—[Ex. Doc. 74, 1st sess. 19 Cong., page 29.] We exacted obedience to our demands. With tears and with prayers they threw themselves upon our mercy, and besought us not to drive them from their homes. With prophetic description they pointed out to us the fate we were preparing for them: but all in vain. We told them "they must go." We told them further, (what we are now told,) that in the country we had provided for them, they would be free from the intrusion of the white man, and there they would be rich and happy. In this way we drove them from the land of their nativity. We took from them their cabins and cultivated fields. Our commissioners, moved by their representations, inserted a stipulation in the treaty that, if the country to which they went, did not contain good land enough for them to live upon, their northern boundary, should be extended so as to embrace good land enough for their support. They went, and what followed? It was stated here, two sessions ago, that, out of five thousand who emigrated, fifteen hundred had perished of famine and distress, in the miserable swamps and sands of that peninsula. The voice of their sufferings came up to this House, and we voted \$20,000 for their relief. I then had the honor to move a resolution to carry the treaty into effect. And a quantity of land, said to be sufficient to secure them from want, was afterwards assigned them. But it seems their sufferings were not at an end. The gentleman from Florida, but a day or two since, complained that these Indians were plundering his constituents. That, forced into the settlements by hunger, "they must live by plundering, or starve." The gentleman says, it is impossible for them to live where they are, and is for sending them two thousand miles northwest, into regions beyond Missouri, where his constituents will be no longer troubled by them. There, indeed, they might die unheard and unseen: for, rest assured, sir, the frosts of a northern climate would soon cut off the miserable remnant that has survived the famine and pestilence of the sultry swamps they now inhabit. I will point out to the gentleman a nearer and speedier relief for their sufferings—carry the treaty into full and immediate effect. Give them good land enough to live on: for, surely we have long enough delayed to execute the obligations of right, amid the cries of human suffering. And I hope, after this information, that my colleague, the Chairman of the Committee on Indian Affairs, will consider that the lives of these perishing men are, in some degree, in his hands; and I invoke him, as a Christian, to see that this treaty is carried into effect. And that I myself may not be wanting in the discharge of the duties of humanity, I will call his attention to the subject on some other suitable occasion. But, sir, the Florida Indians are not the only ones that we have reduced to distress by removal. About the same time, we made a treaty with the Quapaw Indians, a small tribe living in the Territory of Arkansas,

and removed them into some distant and inhospitable region, where, when we hear of them at all, it is of the intolerable miseries and famine to which we have subjected them. If other examples of the fruits of this cruel policy are wanting, they are ready at hand. We sent the Delawares, and, perhaps, some other tribes, which lived northwest of the Ohio, across the Mississippi. Let us devote a moment to their condition. My colleague over the way, (Mr. Woods,) yesterday read an extract from a letter of General Clark, the Indian Superintendent beyond the Mississippi, written two years since, in which he speaks of facts within his own knowledge, and as such communicated here in an authentic shape. Speaking of the country where these Indians have been sent, (and to which this appropriation is asked to send more,) he says, "during several seasons in every year, they (the Indians) are distressed by famine, in which many die for want of food, and during which the living child is often buried with the dead mother: because none can spare it so much food as would sustain it through its helpless infancy." It is, sir, to increase the number of these miserable beings beyond the Mississippi, and thus add new and increased distress to these regions of famine, that this appropriation, if granted, is to be in part applied.

To sustain and relieve from suffering those whom we have reduced to distress, is our solemn duty, and so far as this appropriation is to be so applied, it will have, as I have already said, my hearty support. But, sir, the great object of this appropriation is the removal of the Indians. And I appeal to gentlemen to say, whether they can, in their consciences, go forward another step in this work of desolation. A letter from the same gentleman, written a short time since, was also read yesterday, at the request of the Chairman of the Committee on Indian Affairs, for the purpose of showing the necessity of making this appropriation. That letter depicts, in language of much feeling, the present sufferings of these unfortunate Indians, whom, he says, we have induced to leave their comfortable homes to go beyond the Mississippi, with assurances of protection and support. The touching appeal of the writer to Congress in their behalf, produced a strong sensation of sympathy upon the committee. The letter, though read as an appeal to that committee, in favor of the appropriation, contains, like all the facts I have adverted to, an unanswerable argument, to show, that with this knowledge before us, we cannot, unless we are totally insensible to human suffering, expend another dollar in seducing these miserable people from their comfortable homes, and which, we have volumes of evidence to show, they are anxious to retain. It also shows, in the same unanswerable manner, the necessity of making ample and speedy provision for those whom we have reduced to suffering and want. I think, Mr. Chairman, I have now shown, that

FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

the manner in which we have taken, and now propose to take the Indians beyond the Mississippi, is not only contrary to the mode pointed out and recommended by Mr. Monroe, but that what we have done is a high-handed outrage upon humanity, the further progress of which we are under solemn obligations to arrest. But since gentlemen, during this debate, have asserted that they are proceeding according to the recommendation of the Executive, for the purpose of giving them the full benefit of the assertion, I shall grant they are so proceeding, however incorrect the admission may be, in point of fact, as I have already shown. I shall now maintain, that the plan of colonizing the Indians and establishing a Government over them, and thereby bringing about their civilization, is wholly visionary and impracticable. Let us first look into the argument of gentlemen in its favor, and see what it amounts to. They begin with a moving description of the wretched and degraded condition of the Indians, and assert that they are sinking in intellect, morals, and numbers. All this may be true of some of the tribes; but it is quite the reverse, when asserted of the most populous tribes of the South, as the documents now on our tables, and those that have been sent here for some sessions past, incontestably prove. But, for the purposes of the argument, I shall give gentlemen the benefit of this admission also. They next assert that the white people corrupt and maltreat them. This I shall also admit to be true. From all which, they come to the conclusion that the Indian cannot be civilized in our neighborhood; but that, if taken into some distant region, beyond the influence of our example, he will change his habits, and grow up into civilization. The inferences I shall not admit. I shall not admit that he cannot be civilized in the midst of civilization, and shall deny that under the circumstances in which this experiment is to be made, he can be civilized in the wilderness. Gentlemen maintain, and constantly assert, with all the confidence of an established fact, that, when brought together in the wilderness, and shut out from the influence of our people, they will be civilized. This assumes the whole matter in controversy, and it cannot have escaped the notice of the committee, that no gentleman has undertaken to explain the process by which it is to be done; or, what is of more importance, to state the facts or experience to sustain the assumption. It is, indeed, admitted, that they have neither facts nor experience to guide them in this great experiment of human reformation. We are then thrown back upon the original ground, and compelled to look into the nature of the operation to be performed. What is the character of the people to be changed? They are ignorant, averse to labor, irregular in their habits, and strongly attached to the laws, usages and customs, of their fathers, which it is admitted, must be abolished, and new regulations substituted, to give success to the experi-

ment. Next: What are the processes to be performed, in the execution of this plan? When they are examined in detail, it will be found, their number and complexity are such as to render the experiment altogether hopeless. They must be brought to consent to emigrate, and to abolish their laws and usages. You must purchase their country, and pay for their improvements—buy another country for them, and remove its occupants; induce them to adopt the Government you have provided for them, and put themselves under your control; bring their chiefs to consent to relinquish their power and consequence among their people; remove them through the wilderness, in most cases, several hundred miles; provide supplies of food for them on the way, and, after their arrival in their new country, build their houses, open their farms, supply them with agricultural implements, and animals of domestic use; cause them to desist from the chase, and devote themselves to agriculture and the mechanic arts; establish schools; institute a Government over them, and subject them to its laws and regulations; and, finally, keep up a standing military force among them. This is a general outline of what is proposed to be done, and the machinery to be created, as the means of effecting the civilization of the Indians. Passing over the many and difficult preliminary processes, most of which cannot be executed without force, we will, now, suppose one hundred thousand savages, composed of thirty or forty distinct tribes, or nations, are taken into the wilderness to the place of their destination: How are you to make them relinquish the chase, in a country possessing the strongest allurements to it? Unless they change their habits in this particular, you have effected nothing of any value. They have neither knowledge nor inclination to set themselves at work. And how are you to overcome these impediments, and make them submit to the fatigues of labor? How, in case of irregular supply of food, are you to prevent them from breaking in upon the frontier settlements, as they now do in Florida? If you exclude the whites from coming among them, how are you to supply them with provisions? Who is to build their houses, and open their farms? All these things it is intended the whites shall perform, as well as to instruct them in the mechanic arts and in agriculture. If you cause these things to be done by the whites, you necessarily multiply their intercourse with the Indians far beyond any thing that now exists. The idea, therefore, so fondly cherished by gentlemen, that they shall shut out all intercourse between our people and them, and thereby remove them from the contagion of our example, is wholly erroneous. The very operations which it is intended the whites shall perform, (and which they must perform, if done at all,) show that gentlemen have not looked into the practical workings of their own plan, when they tell us it is necessary to remove

them, to get them out of the reach of the contaminating influence of the whites.

To build houses and open farms, is a work of time, and the labor of many hands. You cannot get on with the government, and execute its diversified operations, without great and constant intercourse with the whites—intercourse too with soldiers and other mercenaries. Abuses would spring up, and be practised with impunity, from the utter impossibility of superintending the detailed operations of a distant colonial Government.

So far from your being able to shut out the intercourse of the whites, if it were so much as known to what district the Indians were to remove, no matter how distant the country, my word for it, Mr. Chairman, the pioneers would be there in advance of them; men of the most abandoned and desperate character, who hang upon the Indians to defraud them. You cannot run away from these men, nor shut them out from access to Indians, scattered over the wilderness; for, with the pioneers, the law is a jest, and the woods their element; the farther you go with the Indians, with just so much the more impunity will they set your laws at defiance. Indeed, under this plan, the Indians would be nothing more nor less than poor miserable dependents upon those who governed them and supplied them with food.

But again, sir, by what means are a hundred thousand Indians, spread over the wilderness, bearing towards each other inbred hatred, and implacable animosities; pressed by hunger, and pressing upon each other's means of subsistence, to be reduced to order, regularity, and obedience to law? If my colleague, the Chairman of the Committee on Indian Affairs, can do this, he will be justly entitled to go down to posterity with a fame, as a law-giver, more immortal than that of Solon or Lycurgus. He will have done that of which history, either sacred or profane, furnishes no example. It is true, the children of Israel were led out of the wilderness into a land flowing with milk and honey; but, contrary to the Divine example, we propose to lead a whole people, nay, more, the remnants of forty different nations of men, out of a land of plenty, into the wilderness. We cannot make this great and untried experiment upon human life and human happiness, without incurring the most solemn responsibility. Let us examine this experiment in another aspect, and it will be found that it is not in the power of the Government to provide for a hundred thousand inhabitants, some five or six hundred miles in the wilderness. Regular supplies, from the very nature of the country over which they must be carried, could not be transported to them.

There can be but little question, that, to support a hundred thousand people in the wilderness, would cost more than twice as much as to feed double that number at home, where supplies are ready at hand. Whatever was transported to them would, from the labor of

transportation alone, be rendered almost as costly as silver, before it arrived at the place of consumption. Take the price of the ration for the Creeks, whom we are now supporting in the woods, at twenty cents a day, as appears from a document from the War Department, laid on our tables a few days since, and the cost of this single item will be found to fall not far short of ten millions per annum. How long would we go on at this rate before we left these poor wretches to perish of hunger? The utter impossibility of introducing any system of economy or accountability into such a department, where the supplies are to be furnished, in such a country, would open a door for fraud and speculation, without any example among us.

I come now, Mr. Chairman, to the contemplation of this oppressed people in their present abodes. We all agree the time is come, when something ought to be done to rescue them from extinction. And here, gentlemen turn upon us, who oppose them, and ask what we will do. I answer, enlarge the means of improvement you are now employing with acknowledged success, and extend your laws over them. Try the experiment where they are. It will cost but little, and if that fail, there is no danger of bringing distress upon them, or making their condition more desperate. It will then be time enough to try the scheme of colonization, which, it is not contended, has any other advantage than that of getting them out of the way of the corrupting influence of the whites, which I have already shown is a mistaken notion. If the colonization plan is tried first, it will be too late to try the other afterwards. When the step is taken, it cannot be retraced. Gentlemen maintain, that, because the tribes in our neighborhood have not become civilized, that, therefore, they cannot be, unless they are removed at a distance from us.

Many of the tribes have made great and flattering advances in improvement. And now, we are called upon to undo all that we have done, by breaking them up from their very foundation. But what is the argument? It is, that civilization cannot spring up in the midst of civilization. That civilization is a plant that cannot grow beneath the shade of the full-grown tree. Sir, we have done nothing to civilize them in a form that can touch the evil to be corrected; nor have the Indians the intelligence and moral power necessary to reach and correct it, without our aid. The great difficulty now in the way of their improvement, may be traced to the nature of their government, and the tenure of their property. With the exception of the Cherokees, who have lately formed for themselves a constitution on Republican principles, which has given some gentlemen here so much alarm, there is not a single tribe that we do not now find under the same government and usages, that existed on the day when the Pilgrims first landed on our shores. It is the government of

FEBRUARY, 1838.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

the savage, fitted to the savage state, and wholly at war with the rights and usages of civilized man. Efforts at civilization have been made by those who have not had the power to touch and heal this evil. And, until the government of the savage, and the basis upon which he holds his property are broken up, all efforts at civilization, directed either by individuals or by the Government, will and must fail. To expect that they, unaided, will do this, is to require of them more than miracles. Ignorance is everywhere wedded to the usages in which it has grown up; and were they to make the attempt to change their Government, they could not do it. They are without the moral power, knowledge, and experience necessary to make so great an effort—an effort, always great, when and wherever made. They do not know how to set themselves at work; and, if even the chiefs had the necessary knowledge and moral power, they would naturally use it in perpetuating their own influence.

We cannot reasonably expect they will voluntarily assist in a work of reformation that must end in the extinction of their own consequence. Begin, then, here; take away your whiskey, and extend your laws over them, and see what they will do. Give them the right of individuality of property, and fertilize them with your schools; then, and not till then, will you make an experiment worthy of the name. By so doing, you bring upon them no accumulation of misery and distress, endanger no frontier, excite no sectional jealousy, nor exhaust the Treasury with a wasteful expenditure of public money. Being in the bosom of the country, and separated from each other, their influence would be, comparatively, unfelt. If they can be civilized at all, it must be done by these means; and I cannot subscribe to the declaration so often made, that they feel themselves to be a degraded race, and that our people will always treat them as such.

The Indian has an innate sense of dignity; and those among them who have property, feel their personal importance, and are everywhere treated with respect. Personal dominion over property never fails to impart to its possessor a feeling of personal consequence, and to command for him the respect of others. The poor, naked, and starving Indian, feels a sense of personal degradation, because he is dependent; he is compelled, by his wants, meekly to submit to insult and indignity. But give him property, and make him feel that his means of subsistence are within his own command, and you lift him up at once from his prostrate condition. We have the means ready at hand to try the effect of individuality of property upon him, without costing the Treasury a dollar, or the country a single effort. We have more than a hundred millions of acres of land in market, seeking a buyer from year to year, and finding none. Give to every head of an Indian family the right to go into the Land Offices, and select for himself a half section (320 acres) of land,

wherever he pleases, on condition that he settles upon it, and secure it to him by such guards and restrictions as will protect him against the frauds and artifices of the designing, there can be but little doubt that very many, especially among the more improved tribes, would gladly avail themselves of such a provision. In this way, they would place themselves voluntarily under the action and jurisdiction of our laws. All that is proposed to be effected by a removal beyond the Mississippi, is thus brought about, secretly and silently, by a single operation. To do this, the creation of no governmental machinery, or enlargement of Executive patronage is required—we have the whole machinery ready at hand for the operation. Our Land Offices are established, and lands surveyed; or, if the Indians should prefer an apportionment of the country on which they live, our surveying department is already organized to execute the work. Estimating them at a hundred thousand, six and a half millions of acres, out of the hundred millions now in the market, would give to the head of each Indian family three hundred and twenty acres; with it, we make him respectable in point of property, and, what is more, we diffuse them through the country in search of good land, where we should hear no more of their suffering and want.

My colleague (Mr. Woods) yesterday said, that a gentleman from the South, well acquainted with the Indian character, had, on a former occasion, observed to him, "give to an Indian a slave, and you make a man of him." The condition of the Southern Indians, no doubt, fully verifies the truth of the remark. Permit me, sir, to say, by way of modification, give him a farm of 320 acres of land, and you as certainly make a man of him, and a much better man.

Mr. LUMPKIN said, it was always with reluctance that he rose on that floor, to submit any remarks of his. When I look round (said Mr. L.) and see the intelligence by which I am surrounded, I cannot have the vanity to enter the list of competitors for the eclat or distinction which will be awarded to him who makes the greatest display of words on this floor. Nor am I disposed to take a part in the discussions of this House, with a view of encouraging the manufacture of Congressional speeches. I consider that of speech-making one branch of domestic manufacture, or of the American system, if you please, sir, which does not require encouragement or protection. It has already arrived to a maturity, which can enter into fair competition with any country whatever, with a fair prospect of success. But, sir, I stand so connected with this subject in several points of view, that I cannot shrink from addressing the committee on the present occasion.

The two very distinguished gentlemen from Ohio, (Mr. Woods and Mr. VINTON,) who have consumed so large a portion of the time of this committee, in displaying and exhibiting their opposition to the extinguishment of Indian title

to lands, and to the removal of the Indians to some eligible situation west of the river Mississippi, have introduced such a mass of foreign matter into this discussion, that they will excuse me in my present state of health, for declining to follow them in all their labored arguments and details upon this subject. The best refutation which can be presented, to all that these gentlemen have said upon this important and interesting subject, will be found in the fact that they stand opposed to the wisdom, the experience, and benevolence, of the whole country. In opposition to all their opinions, doctrines, and reasoning, I will place those of James Monroe, John C. Calhoun, James Barbour, and a host of others, who are experienced and distinguished statesmen and patriots, and who have long deliberated and reflected upon the subject of our Indian policy and relations. These distinguished individuals have all arrived at the same results; that the only hope of saving the remnant tribes of Indians from ruin and extermination, was to remove them from their present abodes, and settle them in a permanent abode west of the Mississippi River.

The views of all our Indian agents, so far as my knowledge extends, coincides with the friends of the emigration plan; and, with very few exceptions, we find the benevolent and pious missionaries, who have long labored for the benefit of this unfortunate race, decidedly in favor of the emigrating plan. One respectable denomination of Christians have memorialized the present Congress on this subject, and urged, with much earnestness and ability, the results of their labors and experience, in favor of the emigration plan; which is the only plan by which the Indian can ever be considered permanently located and settled. Sir, these opinions of wisdom, experience, and piety, I present as a reply to the voluminous details of the two distinguished gentlemen from Ohio, (Mr. Woods and Mr. Vinton.) If the committee, or the country, ask for any further reply to the remarks of these gentlemen, I will refer to the remarks of another gentleman from Ohio, (Mr. McLEAN,) the honorable Chairman of the Committee on Indian Affairs. His pertinent and very appropriate remarks, must be impressed upon the recollection of every gentleman who was present yesterday when he delivered them. That gentleman, with all his known vigilance and assiduous attention to the local interest of his immediate constituents, when his duty requires it, enters upon the business of national legislation, with a liberal dignity of purpose which embraces the general interests of the whole country. And, upon this occasion, the brief view which he took of this subject, and the information which he submitted to this committee, is, to my mind, sufficient of itself, to obliterate all the labors of his two colleagues. Sir, the remarks on this subject, submitted by the Chairman of the Committee on Indian Affairs, reminded me of the saying of the wise man of antiquity: "Words, fitly

spoken, are like apples of gold, in pictures of silver."

Gentlemen deny that the policy of this Government is settled, in relation to the question of Indian emigration. I am of a different opinion. Mr. Monroe's Administration marked out the plan, and recommended its adoption in strong terms. The present Administration has continued to urge, upon all fit occasions, the views of its predecessors upon this subject. Congress, I admit, have never sanctioned the plan to the full extent which it has been recommended by the Executive Government. Nevertheless, many acts of legislation might be cited, which were based in the execution of this plan. Look at the various appropriations of money to extinguish Indian title to lands within the States, and to provide for their removal and settlement west of the river Mississippi.

It is true, I am myself in favor of legislating upon a more extended and comprehensive plan, upon this subject. And, with a view to general legislation upon this subject, at an early day of the present session, I introduced a resolution, which was adopted, "instructing the Committee on Indian Affairs to inquire into the expediency of providing, by law, for the removal of all the remnant tribes of Indians, within the limits of any of the States or Territories of this Union, to some eligible situation west of the river Mississippi."

The report of the committee, in answer to this resolution, has long since been made to this House, and is altogether favorable to the objects embraced in the resolution. As a member of the Committee on Indian Affairs, I was, however, disposed to go much further than a mere favorable report. I was disposed to make ample provision for carrying into full effect the emigration plan, and did, accordingly, submit a report and bill to the committee, in lieu of the report which was made to the House. But the majority of the committee preferred the report made to the House, and I felt it my duty to acquiesce.

But, that the time has arrived, when this Government must change its policy in relation to the Indians, appears to me so plain, so clear, and so self-evident, that I cannot see any reason for delay or hesitation. From the commencement of this Government, that is, from the adoption of the Constitution of the United States, this Government has assumed and exercised an almost unlimited control over the Indian tribes settled within our boundaries. It has assumed and exercised the right of legislating for them, in all their most important interests. We have taken the guardianship of them, and treated them as minors, orphans, and persons who were incapable of managing their own estates. And the exercise of this power has heretofore been recognized as legitimate, and has been acquiesced in by the Indians, by the States, and by foreign nations. But, sir, the day has already arrived, when this

FEBRUARY, 1838.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

state of things cannot longer exist. The inefficient course pursued by this Government, in matters in which one of the States has a deep interest, as well as the Indians, has weakened the confidence of the Indians, as well as the State, in this Government, to an extent which has disposed all the parties in interest to look to their own sovereignty for a remedy of the evils under which they are, and have been laboring, "for, lo, these many years."

It is known to every gentleman of this committee that my allusions are directed to the state of things existing between the State of Georgia and the Cherokee Indians, and the Government of the United States. It is a subject, sir, which, after all that has transpired, I can but approach with reluctance. But, as one of the Representatives of that State, and as a member of the Committee on Indian Affairs, duty impels me to use every effort to draw the attention of the present Congress, and of the nation, to the importance which is necessarily attached to this subject. I feel it my duty to warn this committee, and the nation, of the impending evils which must necessarily grow out of an imbecile course on the part of this Government. I deem it to be unnecessary to enter into all the details of the compact, entered into between Georgia and the United States, in the year 1802. The history of that transaction seems at last to be well understood here, and everywhere else. I know the subject is perfectly understood by every member of the Committee on Indian Affairs; and I will avail myself of this opportunity to add, that I have the most entire confidence that every member of that committee are disposed to do justice to Georgia, as well as to the Cherokee Indians. Indeed, from what we daily hear from members on this floor, I cannot doubt but what the long-delayed rights of Georgia upon this subject have gained the attention of the Representatives of the people of this nation—and that the cause of right and of justice will no longer be urged in vain. In relation to the compact between Georgia and the General Government, entered into in 1802, I will briefly state, in a summary way, that whenever Georgia has urged the fulfilment of this compact, the United States have never denied the debt, but urged the plea of inability—alleging that the Indian title could not be extinguished "upon reasonable and peaceable terms." Upon the other hand, Georgia has alleged, and continues to allege, that the very impediments which lie in the way of extinguishment, have been produced by the policy pursued by the United States. But I find, sir, that the feeble state of my health will not admit of my extending my remarks to many important details which I had intended to present to this committee; I will, therefore, again advert to the actual state of things in relation to the Cherokee Indians at the present time.

The Cherokee Indians, who principally reside

within the limits of Georgia, have, in the course of the past year, renewed their often-repeated declaration, that they will never—no, never—relinquish their present possessions. They have placed this declaration in a constitutional form; and, with all the formality of a sovereign and independent State, they have set up for themselves. They not only disregard Georgia, and the rights of Georgia, but they have actually enacted laws, and execute them, too, which are in direct violation of the laws of the United States. I have the highest authority for making this statement, which I will submit to the committee.

The Legislature of Georgia, at its last session, have extended the jurisdiction of the criminal laws of that State over the Cherokee country lying within the limits of Georgia, and have added the country to the former counties of the State of Georgia. And, in the State paper of Georgia, printed at the seat of Government, (Milledgeville,) I, this day, see the proclamation of Governor Forsyth, notifying all persons whom it may concern, of the provisions of the act of the Legislature, and requiring obedience and respect to its provisions, and execution from citizens and officers of every grade and description. Now, sir, what must be the result of this anomaly of three separate and distinct Governments, exercising sovereignty of jurisdiction, under conflicting laws enacted by three separate and distinct legislatures, over the same people, and at the same time? and, in some cases, these three distinct sovereign legislatures have enacted laws upon the same identical subjects, which laws do not harmonize in their provisions.

I will give you one or two cases, out of many, which actually do exist, and are in daily conflict. The United States laws prohibit the introduction of spirits into the nation, and, if introduced by a citizen, it is liable to confiscation, with all his packages of goods, &c., the one-half to the informer, and the other to the United States. The Cherokee laws prohibit the introduction of spirits also, under a fine or penalty of one hundred dollars, and a forfeiture of the spirits—one-half to the informer and the other half to the treasury of the Cherokee nation. The laws of Georgia do not prohibit the sale of spirits in large quantities at all; and those who wish to retail, procure a license from the county court for that purpose. Another similar case I will present to the committee. The United States law prohibits peddling in the nation, or selling merchandise at any other than the places designated by the agent; and annexes its fines and forfeitures for a violation of the law. The Cherokee law authorizes any citizen to peddle or trade where they please in the nation, on paying twelve dollars a year to the treasurer of the nation, and one dollar to the officer issuing the license. The laws of Georgia admit of no peddling, without first obtaining a license, for which the applicant pays one hundred dollars a year, which entitles him

to peddle and vend his goods anywhere within the limits of the State.

This state of things cannot exist: something must be done, and the sooner it is done the better. It is high time these unfortunate people should know their destiny plainly and positively. They should know precisely in what relation they do stand to the United States, and in what relation they do stand to the particular States in which they reside. A state of suspense is the worst of all cruelty that can be exercised towards this noble race of people. If they are to be resigned to the States and the State laws, I call upon this Congress to tell them so. If we determine upon their emigration to the West, the sooner they know it the better, that they may send their Caleb and Joshuas to search out and view the promised land: for, situated as they now are, and where they are, there is no rest for the sole of an Indian foot.

Mr. WHITE said he felt great reluctance, at all times, in troubling the House with his remarks on any subject, and more especially at this moment, when its patience must be exhausted by the elaborate discussion of the bill under consideration. He would not have taken part in the debate on the present motion, if the gentleman from Ohio had not made some observations on the condition of the Florida Indians, and suggested a mode of relief, which, in his opinion, it was not within the power of Congress to grant. Before I go into that subject, however, said Mr. W., I will say a word or two on the singular course of this debate. The Committee of Ways and Means have reported a bill for the Indian service, which, among other things, provides an appropriation of money to enable the President of the United States to send exploring parties of Indians from the east to the west side of the Mississippi River, to examine the country. This exploration may, or may not, be followed by treaties of cession of their lands on the east side, for lands on the other. If treaties are formed consequent upon the examination made by them, it must be by their own consent, so long as the United States pursue their present policy. The two gentlemen from Ohio have discussed this question, not as a proposition to obtain information, by this unfortunate race, to see whether their condition may not be bettered, by an exchange from their present deplorable situation, to one more congenial to their nature, and better adapted to their habits of life. They appear to discuss it as if it were a proposition for their removal, without respect to their inclinations or rights. One motion to strike out having failed, the gentleman who has addressed the House with so much zeal and ability to day, proposes an amendment that none of the Indians, south of 36 deg. 30 min. north latitude, shall be removed north of that line. Sir, the gentleman well knows that the United States own but a small portion of Territory, if any, south of that line, which is not

within the limits of the States and Territories. If he supposes that we do not understand that the object of his amendment is to destroy the effect of the appropriation, he gives us less credit for perspicacity, than we accord to him. We understand this, as well as we do the ultimate objects he has in view, in proposing the amendment. It would not have been mistaken, if something about the formation of new States and Territories, and the balance of power, had not fallen from him. The United States are acknowledged to be the undisputed owner of all the Territory north of Arkansas, and west of Missouri, to the Rocky Mountains. Now, sir, if it should be ascertained that the miserable remnant of the Aborigines of this Continent could find, in that extensive wilderness, a home remote from the white settlements, before the advances of which they have withered and decayed, is it consistent with our policy, or that long-sighted humanity that I trust will always characterize the course of this Government, to prevent them from enjoying it, upon mere political calculations? It is acknowledged, by every man who understands any thing of our Indian relations, that they are more indolent, vicious, and worthless, in the vicinity of the whites, than remote from them. They imitate all the bad habits of the worst part of our population. They are, in some measure, emancipated from the restraint of their own Government, such as it is, by the facilities afforded them of retreating to the white settlements. They lose the native independence of the savage, and, instead of imitating the white man, in any thing which is proper, they lose all energy, become drunkards and vagabonds, and depend more on stealing from the whites, to save them from starvation, than the chase. Whether from nature or habit, their indolence in every situation is invincible, except only in the pursuits of their fathers handed down to them by tradition. I need not tell this House that their subsistence is derived from hunting principally, and as their hunting grounds are diminished, by the encroachments of the white population in the State, that their diminution has been in the same ratio; and all concur that, in their present condition, reduced as they are to such limits, it must progress until they are utterly extirpated. They are rapidly melting away—no one can deny this—and the question is, how is this doom to be averted? The present policy must result in their annihilation. Is it better to pursue the course recommended by that excellent man and profound statesman the late President of the United States, as the result of his matured experience, to colonize them to the west of the Mississippi, or to leave them the annoyance of their neighbors, in their perishing condition, where they now are? Are the benevolent objects proposed for the Indians themselves, the peace and quiet of your citizens, in the States where they are, the rights of property, the protection the Government is bound to afford to the persons and



FEBRUARY, 1828.]

*Indian Appropriations—Emigration of Indians.*

[H. OF R.]

property of the people to the South, to be entirely disregarded, or counterbalanced by the prospect of multiplying new States and Territories west of the Mississippi? This is the true question. There is no disguising it. Sir, I cannot believe that a majority of this House can leave the most exposed part of the United States subject to the constant annoyance and depredations of this half-starved erratic race, and ready, at all times, to be operated upon by a foreign enemy to destroy our frontier settlements. Notwithstanding the evils of which we justly complain, and the strong claim we have on the Government, to change their policy in relation to the Indians, this bill only proposes to furnish the means of an examination, for their own benefit and for ours. For one, I think the practice of negotiating with Indians a solemn farce. I think it is our right and our duty to assert the superiority which all civilized nations have exercised over savage; and with that view, I introduced a resolution, two years ago, instructing the committee to inquire into the expediency of subjecting the Indians to our absolute control. I think that ought now to be the course, and let our legislation be dictated by humanity. They are, and ought to be, considered minors, and governed as such. Of this, however, it is not proper here now to speak. The gentleman from Ohio, (Mr. Woods,) upon the amendment he proposed, took occasion kindly to suggest to me a relief for the Florida Indians, by restoring to them the country they had prior to the late treaty. I do not doubt his sincerity, and am perfectly satisfied he would be glad to see the country restored to them. If he means the country owned by them by any title, absolute or qualified, such as other Indians possess within our limits, my answer is, that nothing would be restored to them. If the gentleman means the lands over which they hunted, and, in one sense, occupied, before that treaty, I answer, that you would restore to them the whole country between Pensacola and the St. Johns, about three hundred and fifty miles in extent. If the Indians were the owners of all this country, how did the United States ever commit the egregious folly of negotiating with Spain for it? The gentleman from Ohio who last addressed the committee, (Mr. Vinton,) has gone more into detail as to the Florida Indians. He has pledged himself to introduce a resolution requiring the Committee on Indian Affairs to report a bill for the extension of the northern boundary line, and has alluded, in terms of reprobation, to the manner in which that treaty was negotiated and carried into execution. This is not the first time that this subject has been introduced here, and I feel it due to the Territory I represent, and to myself, to give some explanation of the matter. If the gentleman had referred to the documents communicated to Congress on the 28th of January, 1823, and among the Executive papers of the second session of the Seventeenth Congress, he

would have seen a very different picture of these Indians, than that presented to him by some officer to whom he alluded. If he will look to the official reports of the agents then charged with this business, he will find, that, instead of being a contented, happy, and industrious people, that they are represented to be "very poor, very lazy, and great beggars," loving the English, and hating the Americans; "as lawless freebooters, among whom runaway slaves find a refuge," and to have been governed by the negroes among them. They were further represented, so early as 1821, when Florida was surrendered to the United States, and long before that time, in possession of that vast extent of country on the northern coast of the Gulf of Mexico, with all its game, to have been reduced to great extremities for the want of food, and to have plundered the frontier settlements of Georgia and Alabama. The gentleman, after having presented this view to the House, states that he is informed that, since the treaty was forced upon them, about 1,500 per annum have died of starvation. I do not know from whence this information was derived, but I am informed, upon good authority, that their number has not diminished more than five hundred since the treaty, which is four years gone by, and a part of them have returned to the Creek nation, from which they were fugitives, and the others have perished for want of food. If the suggestions of the Governor of Florida, Gen. Jackson, in 1821, had been adopted, the people of that country would have been saved their present grievances on this account, and the humanity of some persons would not have been shocked by the spectacle alluded to. He recommended that the Creeks who had run away from their nation, during the war, should all be compelled to return, and that the natives of the country should be disposed of as justice and humanity might dictate. He recommended that all of them should be removed from the country. Whatever may have been the title of the aboriginal Indians to any portion of Florida, which I shall examine presently, no one can pretend that the fugitive Creeks, under McQueen and Francis, who run into that country under the enticements of British agents, to continue the war, became proprietors of the soil. When the Indians called on General Jackson, he demanded the number and names of their towns, and the population of each, and from what parts of the country they removed; which was given, and communicated in the documents I have mentioned. After enumerating a number of towns, there is this emphatic declaration, to which I invite the attention of the gentleman: "The greater part of all these fled from the upper Creeks, when peace was given to that nation." These are that peaceful, happy, contented, and prosperous people, whose violated rights excites so much commiseration—and yet, these fugitives, freebooters, and vagabonds, who did not pretend, in the pres-



ence of General Jackson, to claim any lands whatever, but threw themselves on his clemency, on the mercy of the Government, are parties to this treaty. But, sir, to recur to the title of the Florida Indians—I mean the natives: They are the fragments of several tribes, which have more nearly approximated that destiny to which all seem to be doomed—final extinction—unless they are removed to the west of the Mississippi. What claim they had, is difficult to be determined. The Spanish Government, it is believed, never acknowledged any absolute ownership in the Indians within the limits of their provinces. They have gone somewhat farther than we have in limiting their rights. The United States, by their act of disfranchisement, have declared all sales of the Indians, only to themselves, void, and it may be asserted, that their policy, like that of most Governments, was regulated by their power. In 1784, shortly after the retrocession by the British Government of the Floridas to Spain, a treaty was formed between the Indians then in Florida, and his Catholic Majesty, in which they are incorporated as Spanish subjects, promised allegiance, and are to be protected in the lands they occupy, which was construed, afterwards, by Spain, to be their farms and villages, to be usufructuary interest, and they tenants at will of the Spanish king, and any sale of theirs without the assent of the Spanish authorities, would be a relinquishment of possession, and not soil. Spain permitted them to sell, in several instances, the lands they occupied, but the sales were of course to be ratified by the legitimate authorities of the king, which demonstrates that it was a title *sub modo*. When these documents were submitted to this House, and referred to the Committee of Indian Affairs, they made a report declaring their opinion, that, as a nation, the Indians owned no lands in Florida—that they were incorporated as Spanish subjects, and, like all others, could obtain grants. This report was then concurred in. I admit that the instructions of the Secretary of War, under which the treaty was negotiated, was a partial recognition of some right in them; but, whether absolute, qualified, or possessory, is not indicated. If the view taken by General Jackson, and by the Committee of Indian Affairs, be correct, we were not bound to negotiate with them at all. They were the subjects of legislation, not of treaty. Whatever diversity of opinion may exist as to the nature and extent of the title of the natives, however, no one will pretend that these fugitive Creeks, by seeking a hiding-place in Florida to carry on the war, had any right of soil—and yet they are there; and we are asked to restore them to their rights, or to extend the northern limit of the treaty among our own population, for their benefit. Spain ceded the provinces to the United States in full property. They had no right, before we held a treaty with them; that treaty gives them four millions thirty-two

thousand acres of land. It is reported they cannot live within the boundary; an application was made to Congress to extend it; the bill failed, and the Secretary of War, under one of the articles of the treaty, after the adjournment of Congress, upon the application of the agent, removed the line so far north, as to cover twenty thousand acres of sugar land, upon a part of which there are private grants made by the Spanish Government, and confirmed by the United States. I have said it is not in the power of Congress to extend this line. There is no good land between the present limit and the Georgia line, that it is not covered by Spanish grants, the most of which have been confirmed by the United States. The treaty with Spain, prior in date, binds the United States to confirm them, and the Constitution of the United States protects the rights of individuals against any power under this Government. These claims are confirmed by act of Congress, and I ask what authority we have to extend an Indian boundary over the land of an individual, whose right is fortified by treaty, by the constitution, and by our own law? The deplorable condition to which these Indians have sometimes been reduced, cannot be ascribed to the small quantity of land which they have. It has its origin in other causes. The only articles ever cultivated by them, or most generally cultivated, are corn and peas, and neither the soil nor climate is adapted to that cultivation. I do not hesitate to pronounce that, under this article of the treaty, by which this Government is alleged to have power to remove this line, if it were removed up to the limits of Georgia there would not be good land enough, under their modes of culture, or habits of life, to supply that number of men with a sufficient quantity of corn; and yet, with the economy, care, and skill, of a well-informed agriculturist, a few thousand acres of such land as we have west of the Mississippi, would supply their wants. You must produce a radical reform in their habits, a revolution of their modes of life, before they will live by agriculture anywhere; and the difficulties are always increased, as the soil and climate interpose barriers to such an object. The Indian population in the Floridas is about four thousand. The agents, in the documents referred to, say that two-thirds are Creeks—the most of whom fled at the period I have adverted to, and others for bad conduct; and I should be satisfied to restore these to their former country—I mean the Creek lands; or to incorporate the whole with the emigrating party, which it is the duty of this Government to do. I intended to have said something more on the subject of their colonization, but am admonished, by the lateness of the hour, of the impropriety of going into that now. I will only say that I consider it required by policy, justice, and humanity. It is alike due to ourselves, and to the Indians; and I trust the day is not distant, when the plan of that practical

FEBRUARY, 1828.]

*Claim of Mr. Meade.*

[H. OF R.]

statesman and benevolent man who is the author of it, may be carried into execution.

[Here the committee rose, and reported the bill to the House.]

THURSDAY, February 21.

Nearly the whole of this day was spent in discussing the several amendments offered in Committee of the Whole to the Military Appropriation Bill. The bill was finally ordered to a third reading.

SATURDAY, February 23.

*The Claim of Mr. Meade.*

Mr. EVERETT moved that the House now go into Committee of the Whole on the bill for the relief of Richard W. Meade, [who claims nearly half a million of dollars, being the amount of his demand upon the Spanish Government, acknowledged and liquidated by that Government, but not allowed by the American Board of Commissioners under the Florida treaty, for want of the original documentary testimony, all of which was in Spain. The bill proposes to empower the Attorney-General of the United States, and any two of the auditors, to examine and decide upon this claim, under the same rules, and according to the same principles, as were observed by the Commissioners under the Florida Treaty, in examining and deciding upon other claims.] The motion prevailed—ayes 96, noes 27.

Mr. EVERETT stated that this bill was accompanied by a report, and a selection of documents, from the Committee on Foreign Affairs. These papers had been for some time on the tables of gentlemen, and were, at any rate, too voluminous to be read. He would endeavor briefly to state to the committee the leading facts and points of the case, reserving to himself, and to the gentlemen with whom he had the honor to be associated, in the Committee on Foreign Affairs, an opportunity of hereafter submitting such further views and arguments on its merits, as the course of the discussion might require. This important and interesting claim, (continued Mr. E.,) arises, as is doubtless well known to the committee, under the provisions of the Treaty between the Governments of the United States and Spain, which was signed on the 22d of February, 1819. Negotiations of an exceedingly complicated, protracted, and, I may add, vexatious character, had subsisted between the two Governments, for a long course of years. Various demands and pretensions were advanced on either side: and the long-desired accommodation and settlement were finally effected, by a mutual renunciation of several of these demands, respectively, on the part of the two Governments for themselves and on behalf of their citizens and subjects. The renunciation, by the United States, of claims against Spain, was expressed in five specifications in the ninth article of the treaty. The four first of these specifications

extend to classes of matters capable by their nature of being particularized as such; and the fifth extends to "all claims of citizens of the United States upon the Government of Spain, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State, or to the Minister of the United States in Spain, since the date of the convention of 1802, and until the signature of this treaty."

The committee perceive that no description could be more broad, as respects the nature of the claims. It carries with it but two limitations, neither of which touches the origin and source of the claims. It requires only that they fall within August 11th, 1802, and February 22, 1819, and that statements of them soliciting the interposition of the Government of the United States, should have been presented either at the Department of State, or to the Minister of the United States in Spain. This is the main foundation of Mr. Meade's claim. All the demands, of which it is made up, as proposed to be provided for by the committee, arose after the date of the convention of 1802, and prior to the signature of the treaty of 1819, and statements of it, soliciting the interposition of the Government of the United States, had been presented both to the Minister of the United States in Spain, and to the Department of State in this country; to the latter, a short time before the signature of the treaty, and with the express purpose of thus fulfilling what it was supposed might be a preliminary condition, necessary to its being included in the provisions of the treaty. These facts (said Mr. EVERETT) are substantiated in the papers appended to the report of the committee, to which I will, therefore, only in general refer.

It may be added, though I would not admit, in all cases, this rule of interpretation of treaties, that it has been declared by the two functionaries who negotiated the treaty—by the Secretary of State of the United States, (now the Chief Magistrate,) and by Don Onís, the Representative of the Spanish Government—that Mr. Meade's claims were understood, and intended by them to be included under the provisions of the treaty. This fact, therefore, may be assumed as certain.

What, then, was the remedy provided by the treaty for those citizens of the United States, whose claim to relief from Spain had been renounced? It was as follows: A fund of five millions of dollars was provided by the United States in the eleventh article of the same treaty, in order to make satisfaction to their citizens for the claims against Spain, which had been renounced. To ascertain the amount and validity of these claims, a Board of three Commissioners was provided for, to be appointed by the President of the United States, by and with the consent of the Senate, which Board, within the space of three years from the time of their first meeting, should receive,

examine, and decide upon the amount and validity of all the claims, included within the descriptions of the ninth article of the treaty.

Mr. Meade was among the earliest of the claimants who applied for relief to the Board thus constituted. In January, 1822, he presented his case to them, by a memorial, setting forth the principal facts contained in it; and, in the close, submitting two questions to the Board; first, "Whether his claims be not clearly comprehended in the list of renunciations declared on the part of the United States, in the ninth article of the treaty?—and, secondly, whether, being so comprehended, your memorialist be not entitled to a substantive and full satisfaction of his claim, whatever may be the *pro rata* allowance to the general mass of the claimants, out of the specific fund provided by the treaty?"

The commissioners appear at first to have inclined to the opinion, that claims of citizens of the United States, growing out of contracts with the Spanish Government, were not intended to be provided for by the treaty; and as a considerable part of Mr. Meade's claim, and of other claims grew out of such contracts, they were at first disposed to reject them on that ground. Inasmuch, however, as a large amount of property might be affected by such a decision, and, still more, as it might possibly involve the good faith of the United States, pledged by the treaty to a foreign Government, and to the citizens of the United States, the commissioners addressed an official inquiry to the Secretary of State (who had negotiated the treaty on the part of the United States) whether claims founded on contracts were intended to be excluded. By direction of the President, the Secretary of State returned an answer in the negative, and informed the commissioners, that, "in providing for the claims of the citizens of the United States on Spain, by the treaty of the 22d February, 1819, it was not understood nor intended by the Government of the United States, nor, as is believed, by the other party to the treaty, that claims arising from contract, as they existed at the signature of the treaty, should be excluded from the benefit of the treaty."

The Board had likewise submitted to them, evidence equally authentic, that such was the opinion of the other party to the treaty, viz: the Spanish Minister and the Government which he represented. They accordingly decided, on the 27th of June, 1822, that Mr. Meade's memorial should be "received," as one reciting a claim which was considered as being included in the provisions of the treaty. This term "received," it is to be observed, is a technical term, as used by the Board, and was applied to claims which were admitted to be examined and liquidated; among those provided for by the treaty. And in this sense of the word, the commissioners, after due advisement, as already stated, received the memorial of Mr. Meade. This was the first question, pro-

pounded in his memorial, settled to his satisfaction.

Touching the second point, viz: the amount of his claim, and the evidence necessary to establish it, difficulties unfortunately arose, which have, thus far, resulted in depriving Mr. Meade of all benefit of the treaty, and which constitute a case of extraordinary hardship. Mr. Meade's claims on Spain, consisted of several items, accruing at different periods, and complicated by partial settlements, by delayed payments, by demands for personal injuries, and (in point of fact, not of justice) by the political events of the time. He had prosecuted his suit for a final adjustment and settlement of these claims, by the Spanish Government, for several years, and with various success, amidst the vexatious delays too apt to attend the adjustment and settlement of large private claims, under all Governments; aggravated, in the present case, by the embarrassed condition of the Spanish monarchy. At the period of the signature of the Florida treaty, Mr. Meade's claim was in suit, before the Spanish Government, but still unliquidated. The efforts of Mr. Meade were, however, continued, without abatement, till, at length, on the 19th of May, 1820, the Spanish Government, after a most deliberate and solemn examination, according to its own approved official forms, concluded the adjustment and liquidation of these claims, and acknowledged itself indebted to Mr. Meade, on his own account, in the sum of 373,879 dollars, including therein, a sum of 75,000 dollars as damages and losses, arising from wrongful imprisonment; and, on account of the debts due to him as the agent of others, 117,278 dollars, (omitting parts of a dollar in each sum;) and granted to him a certificate, under the hand of the royal Commissioners of Liquidation, of the Minister of Finance, and under the Royal seal, acknowledging the said debts accordingly.

It was in this form of liquidation and acknowledgment, by the Spanish Government, that Mr. Meade presented his claim to the American Board of Commissioners under the Florida treaty, soliciting the substantive and full allowance and payment of the same.

The Board of Commissioners, however, took a different view of the case. They were authorized to allow and pay only such claims as were renounced in the treaty; and the renunciations in the treaty were bounded in time by the day of the signature, viz: 22d of February, 1819. Considering the Royal Spanish certificate, therefore, as creating in itself a claim, it was inadmissible, under the terms of the treaty, because it bore date more than a year subsequent to the signature of the treaty. Considering it only as evidence of the amount and validity of claims existing previous to the signature of the treaty, it was inadmissible, because the American Board of Commissioners was the only tribunal, clothed with power, by the treaty, "to decide upon the amount and validity of the claims," and

FEBRUARY, 1826.]

*Claim of Mr. Meade.*

[H. OF R]

"to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same." In the discharge, therefore, of the duty, under the stipulations of the treaty, and in justice to all the other claimants, whose demands were subjected to the same ordeal, the Board of Commissioners, on the 27th of June, 1823, at the same time that they received Mr. Meade's memorial, as reciting a claim, within the provisions of the treaty, rejected the Royal Spanish certificate, as evidence of its amount and validity.

The decision threw on Mr. Meade the necessity of establishing the amount and validity of his claim, by procuring the original vouchers from Spain. Anticipating, from the letter of the Secretary of State, already mentioned, that the commissioners would reject the Royal Spanish certificate, Mr. Meade had already, in April, 1823, addressed a letter to Mr. Anduaga, the representative of Spain in this country, apprising him of the fact of the probable rejection of the certificates, and praying him "to become my (Mr. Meade's) mediator with his Catholic Majesty, to obtain for me all the documents, vouchers, and evidence, whatsoever, in the possession and under the control of Spain, appertaining to my demands, that I may prepare them in case of need for exhibition to the commissioners."

It may here be observed, as appears by the same letter of Mr. Meade, that the original vouchers and documents, by which many of his demands were supported, had been delivered up by him to the Spanish Government, upon a formal requisition to that effect; and that, in some instances, the records and papers of certain of the Spanish officers furnished material evidence upon the subject. It is also further very important to be observed, that, by the eleventh article of the treaty, it was provided as follows: "that the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to principles of justice, the laws of nations, and the stipulations of the treaty between the two parties of the 27th of October, 1795."

Mr. Anduaga, the Minister of Spain, appears to have communicated to his Government the request for vouchers, thus made by Mr. Meade, in April, 1823, and in October, 1823, in answer to a second letter from Mr. Meade, to the same purport as his first, Mr. Anduaga, taking a tone somewhat lofty, it must be confessed, wrote a letter to Mr. Meade, in which he stated, "that the Spanish Government will regard as a serious insult, that what, in Spain, is acknowledged as most sacred and respectable, should here be pronounced of no value; that it will never consent to have questioned the legality and purity, with which your liquidation was made, and which is accompanied by all the marks of authenticity which it can give it; and, in fine, though it should be practicable to re-unite all the documents, upon

which that liquidation was made, his Catholic Majesty knows too well what is due to his own dignity, to the reputation of his Ministers, and to the integrity of his tribunals, to consent that a foreign commission shall deem itself authorized to revise their decrees."

After receiving this reply from the Spanish Minister, Mr. Meade addressed another memorial to the Board of Commissioners, informing them of the attempt which he had made to procure his vouchers from Spain, and of its failure; expressing the hope, that, in his failure, and under the circumstances of the case, the Board would not persist in considering as inadmissible the Spanish certificate of liquidation; but, in the event that they should persist in so considering it, soliciting their interposition to procure a formal demand of the vouchers, to be made by the American Government on the Government of Spain, conformably with the stipulations of the eleventh article of the treaty.

The Board persisted in considering the Spanish certificate of liquidation as inadmissible; but acceded to Mr. Meade's request, that a formal demand of the original papers should be asked by the Board of the Government of the United States, and through that Government, be made on Spain. Accordingly, on the 18th of April, 1823, the commissioners forwarded to the Secretary of State, a specific list of the documents and elucidations required by Mr. Meade, in pursuance of the provisions of the treaty, that "the said documents were to be specified, when demanded at the instance of said commissioners."

The Secretary of State, in compliance with this request, instructed Mr. Nelson, then about departing from the United States as their Minister at the Court of Madrid, to present this specified list of papers to the Spanish Government, and to claim the delivery of them, under the stipulations of the treaty. The committee will recollect the delays with which the mission of Mr. Nelson was attended. On arriving off Cadiz, that port was found blockaded by a French squadron, and he was not permitted to enter. Several months elapsed before he reached the Court of Madrid, and entered on the discharge of the duties of this mission. It appears that the formal application for the papers of Mr. Meade was made by Mr. Nelson on the 19th of December, 1823, in a letter addressed to the Marquis of Casa Yrujo, first Secretary of State. In this letter, Mr. Nelson urged a prompt and immediate attention to the several demands of papers, which had been presented on behalf of Mr. Meade and other claimants, on the ground that the Boards created under the Florida Treaty were of limited duration, and that the interest of individuals entirely depended on the records asked to be furnished. On the 11th and 25th of February, 1824, Mr. Nelson renewed, in a letter to Count Ofalia, the demand of the papers, which he had addressed, on the 19th of December, to the Marquis of Casa Yrujo. The delivery of the

papers was promised by the Count Ofalia, in a letter bearing date 8th March, 1824; but owing to various circumstances connected with the state of Spain, delays arose in fulfilling the promise.

Meantime, the three years, fixed by the treaty as the period of the commission, drew near a close, and, on the 29th day of May, 1824, (ten days before the termination of the commission,) the Board decided that the evidence produced was not sufficient to establish the validity of any claims upon the Spanish Government, within the meaning of the treaty, upon account of the matters mentioned in the memorial of Mr. Meade, and they were accordingly rejected. Such is a brief statement (pursued Mr. EVERETT) of the case, presenting Mr. Meade to the consideration of Congress, under the following circumstances: He was a claimant for a large amount on the Government of Spain, and his claims were of a character, deemed by that Government to be in the highest degree meritorious. It is acknowledged by the authorized representatives of the Government, both of the United States and Spain, that they intended to make provisions for its payment, under the stipulations of the treaty. No one, I think, can doubt, who will examine the documents before the committee, that (in the language of the Hon. H. L. WHITT, one of the commissioners, in his opinion delivered April, 1823) "Mr. Meade had claims upon the Spanish Government, which that Government felt itself bound to satisfy." There can be, of course, as little doubt, that, could Mr. Meade have received (as he had a right to receive) his original documents and vouchers from Spain, some part at least of these claims would have been allowed and paid. In presenting his claim to the Board, under the advisement of the ablest counsel, he naturally offered, as very strong and authentic testimony of the amount and validity of his claim, the Royal official certificate of liquidation and acknowledgment of debt. Reason being given him to think, that, under the limitations and restrictions of the treaty, this kind of evidence would be deemed inadmissible by the Board, he applied to the Representative of the Spanish Government in this country, earnestly requesting to be furnished with the vouchers and documents which had been taken from him by the Spanish Government, after the liquidation of his claim. This demand was made by Mr. Meade immediately on receiving the intimation that the royal certificate of liquidation would probably not be admitted, and more than two years before the expiration of the commission. This demand was rejected, and even with expressions of indignation, by the Spanish Minister, speaking on behalf of his Government. Mr. Meade then makes a more formal demand, through his Government, nearly fourteen months before the close of the commission, for the vouchers and documents needed to substantiate his claim, but, in like manner, without success; and his claims are rejected, for want of sufficient evidence to support them.

Mr. Meade, therefore, has been deprived of his rights under the treaty. He had a right to his portion of the fund, as far as his claim should be substantiated; and to substantiate it, he had a right to all the documents and elucidations necessary for that purpose, and in the possession of Spain. He did not fail in anything which he could do, in order to the enjoyment of these rights. He demanded his papers from Spain at the earliest moment he had any reason to think they would be wanted, more than two years before the expiration of the commission; and in a manner not inconsistent with any of its provisions. At a later period, but still at a time when, if it had been instantly complied with, he might have received the benefit of his vouchers, he procured a formal demand of his papers from the Spanish Government. He could do no more. His Government alone could compel Spain (if compulsion were necessary) to furnish the papers. Though Spain was bound to furnish them, she was bound to the Government of the United States, and not to Mr. Meade. The Government of the United States by renouncing and cancelling his claim on the Spanish Government, bound itself to Mr. Meade to secure him in the enjoyment of all the stipulations of the treaty, among them the use of his vouchers, to be furnished by Spain; and contracted an obligation to make the demand of these papers effectual. He could not, of course, make that demand effectual himself. He could not go to Spain, and compel her to open her archives. He could go only to his own Government, and solicit her to cause them to be opened. He did so; and his own Government, having announced his claim on Spain, must cause them to be opened. I do not say that either Government has failed in its duty. That is a subsequent question, to be settled, which it will be time enough to agitate, when a liquidation of Mr. Meade's claim shall have shown the extent of the injury accruing from the failure of Spain promptly to furnish the papers. Meantime, Mr. Meade has certainly a right to be put on as good a footing as he would have stood upon had he enjoyed the right stipulated to him by the treaty—the right of using his original papers.

But the three years have elapsed, and the commission has expired. What, then, can be done? The Committee of Foreign Affairs have known no other way in which they can provide a remedy for Mr. Meade than to approximate, as nearly as possible, to the extension of the former commission, that is, to create a new tribunal, to examine, and liquidate the claim, on the same principles as those which governed the decision of the other Boards; and to allow to Mr. Meade the same proportion of his claim as was allowed to the other claimants, to be paid by the United States in the first instance, because the United States contracted an obligation with Mr. Meade to secure him in the enjoyment of all the privileges of the treaty; and ultimately by Spain, if it shall appear that Mr.

FEBRUARY, 1828.]

*Claim of Mr. Meade.*

[H. OF R.]

Meade and the United States have not failed, on their part, in doing any thing proper to be done by them, to procure the papers from Spain.

The committee have proposed, in composing the Board, that it shall consist of the Attorney-General and two Auditors. Their object in introducing this law officer of the Government into the Board, was to protect the rights of the United States in the discussion and settlement of all questions of a legal nature which might present themselves in the examination and liquidation of these claims. In all other respects, the Board is, as nearly as circumstances required or permitted, identical with the first. The second section of the bill provides, that it shall proceed on the same principles of examination as those which governed the former Board, and that there shall be paid to Mr. Meade the same proportion of what may be found valid in his claim (between 92 and 93 per cent. of the principal and no interest) as was paid to the other claimants. The third section is in blank, and proposes a suitable compensation for the Attorney-General and Auditors employed on this extra duty. At a proper stage of the consideration of the bill, I shall have the honor to make a motion to fill the blank.

With this brief development of the subject, I shall, at present, leave it. I have not attempted, certainly have not succeeded, in giving it a discussion commensurate with its importance. It is an extensive subject, capable of being connected with many great questions. Justice, I have no doubt, will be done to it by other members of this committee, and especially by gentlemen with whom I have the honor to be connected in the Committee of Foreign Affairs. It was but yesterday that it became probable that the bill would be called up to-day. I have only aimed, therefore, under the circumstances, at a brief introduction of the case to the favorable notice of the committee. I cannot, however, sit down without expressing the earnest hope, that the committee will be disposed to pursue to a close the consideration of this subject, and to do, what I regard, as an act of long-delayed justice.

Mr. POLK, said that, having been a member of the committee that reported this bill, and differing in opinion with a majority of that committee, he felt it to be his duty to assign the reasons which would induce him to vote against it. For a series of years previous to the signature of the treaty of the 22d of February, 1819, between the United States and Spain, the present claimant (Meade) had set up a claim against the Government of Spain, for a very large amount. He had pressed his claim on that Government unsuccessfully. All his efforts to obtain a liquidation of it, or even a recognition of its justice, had proved unavailing. The sum claimed by Mr. Meade was little less than half a million of dollars. Having despaired of obtaining satisfaction of his demands by his

own individual exertions, he sought the interposition of his Government in his behalf. The kind offices of the Government, through its Minister resident at Madrid, were interposed in its behalf, but without effect. Before the signature of the treaty, "Mr. Meade desired that provision for his claim should be made in the treaty which was then negotiating; and made known this desire to the Government of the United States." A general statement of his claim was filed with the Secretary of State, and with the American Minister resident at the court of Spain. The treaty was finally concluded and signed on the 22d of February, 1819, and by its provisions was to be ratified by the two Governments within six months from that day. By the terms of the treaty, the two Governments respectively renounce to the other, certain enumerated and specified classes of claims of its own citizens on the other; and assume the payment of its own citizens under certain limitations and conditions. The 5th renunciation of the 9th article of the treaty is—"the renunciation of the United States will extend"—"5th. To all claims of citizens of the United States under the Spanish Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State, or to the Minister of the United States in Spain, since the date of the convention of 1802, and until the signature of this treaty." By the 11th article of the treaty, the United States stipulate to pay the claims of its own citizens on Spain embraced in the renunciations of the treaty, not to an unlimited amount, but "to an amount not exceeding five millions of dollars." By the same article of the treaty, it is provided that a Board of Commissioners composed of three citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate, who should convene at Washington, and within the space of three years from the time of their first meeting, should examine and decide on the validity of all such claims within the renunciations of the treaty, as should be presented to them. It was made the duty of the said commissioners "to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same." The Spanish Government entered into the following stipulation, to wit: "And the Spanish Government shall furnish all such documents and elucidations as may be in their possession for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties, of 27th October, 1795; the said documents to be specified when demanded at the instance of the said commissioners." These are the provisions of this treaty, which have particular application to this claim. It will be remembered that this treaty was not ratified by Spain, within the six months limited for its ratification. The United

States did ratify it on their part within the six months. Spain, long after the limitation had expired, to wit, on the 24th of October, 1820, ratified it on her part; and in the act of ratification, she declared "that the present ratification be as valid and firm, and produce the same effects, as if it had been done within the determined period." The United States ratified it a second time on the 23d February, 1821, and it then became obligatory on the parties. In the year 1820, just before the treaty was ratified by Spain, but after it was known that the Cortes had advised its ratification, and when the Government of Spain had determined to ratify it, Mr. Meade's claim, towards which a favorable ear had never before been given by that Government, was directed to be liquidated, evidently with the expectation, on the part of Spain, that, when liquidated, it was to be paid by the United States and not by Spain. The claim was accordingly liquidated by the Spanish officers, for the sum of \$491,153 62, without the privy or knowledge of the United States. Of this gross sum, acknowledged to be due to Mr. Meade, evidently in a spirit of great liberality by the Spanish officers, under the delusive impression that their own Government was not to pay it, is an item of \$75,000 for the imprisonment of Mr. Meade—an occurrence in the history of that period that must be familiar to every gentleman here. It is not material, however, here to notice the various items composing this gross sum. This liquidation, then, of Mr. Meade's claims, was made by the Spanish Government, between the signature of the treaty, and its final ratification by Spain. It was made, too, after the six months limited for its ratification had expired. This is the claim, and for the enormous amount of \$491,153 62, which Mr. Meade afterwards presented (as I shall presently notice more particularly) to the Board of Commissioners, under the treaty, and which the Board rejected, on the "ground that the evidence produced was not sufficient to establish the same." This is the claim embraced in the bill now before us.

The commissioners were regularly appointed, according to the provisions of the treaty, and commenced their session at Washington, on the 8th of June, 1821. On the 6th of January, 1822, Mr. Meade presented his claim to the Board of Commissioners, and offered as evidence to support it, this Spanish liquidation, made long after the signature of the treaty. The commissioners at first inclined to the opinion that claims founded on contract, such as Meade's was alleged to be, were not embraced by the 5th renunciation of the treaty. But, in order to satisfy themselves more fully, what was the intention of the Government, at the time of negotiating the treaty, on this particular point, they, on the 5th of March, 1822, addressed a note to the Secretary of State, expressing the doubt which they entertained in the construction of the treaty, and requesting information on that point. On the 9th of

March, 1822, the Secretary of State answered, that claims founded on contract, "as they existed at the time of the signature of the treaty," were not intended by the parties to be "excluded from the benefit of the treaty;" and that it was "the full understanding that all the claims should have the same benefit of the provision, be subjected to the same investigation, and be decided upon, not by any subsequent transaction between the claimant and the Spanish Government, but by the commissioners, in the manner prescribed by the treaty, and upon such proof as they should think proper to require, for ascertaining its amount and validity." And again: "To ascertain in the manner stipulated by the treaty, and in no other, the full amount and validity of their claims, as existing on the day of the signature of the treaty, the commission instituted under the eleventh article of the treaty, was provided." The commissioners, on the receipt of this answer, and on reconsidering the first impression they had entertained, determined to take cognizance of Mr. Meade's claim, and considered it embraced in the 5th renunciation of the treaty, and it then remained for Mr. Meade to support it by suitable authentic testimony. Mr. Meade offered, in support of his claim, this Spanish liquidation of it, made, as has been already stated, long subsequent to the signature of the treaty. This the commissioners rejected, as incompetent testimony, and not such as was contemplated by the treaty, and required the production of the original testimony, documentary and otherwise, on which this liquidation was alleged to be made. Mr. Meade was early apprised of this decision of the commissioners. He, as early as the 4th of April, 1822, in a note to Don Joaquin Anduaga, the Spanish Minister resident here, complained that the commissioners had treated this liquidation as "a nullity." He at the same time pressed upon the commissioners, with increased earnestness, the propriety of receiving this liquidation as conclusive evidence of his claim; and that he ought not to be required to produce the original testimony. The commissioners adhered to their first decision, but extended to Mr. Meade every indulgence, by affording an opportunity to produce testimony; and by not finally rejecting his claim, until the 7th of June, 1824, the day before the period of three years, limited by the treaty for their session, expired; when they did finally reject it, on the "ground that the evidence produced was not sufficient to establish the same." Mr. Meade, then, was apprised, as early as the 4th of April, 1822, more than twenty-six months before the period limited for the session of the commission expired, that this Spanish liquidation would not be received by them as evidence in support of his claim, and yet he did not, at that time, call upon the commissioners, as he had a right to do under the eleventh article of the treaty, to require the original "documents and elucidations," in the archives of Spain, (if, in fact,



FEBRUARY, 1823.]

*Claim of Mr. Meade.*

[H. or R.]

there were any there,) to be furnished. But he preferred to complain of the decision of the commissioners, to the Spanish Minister, and to continue, unceasingly, to press his claim before the commissioners upon the evidence he had already; and which had already been rejected. Mr. Meade, not satisfied with having written his note of the 4th of April, 1822, already alluded to, again, on the 10th of October, 1822, wrote a second note to the Spanish Minister, reiterating his complaints against the commissioners, for having rejected the Spanish liquidation, as testimony in support of his claim. On the 16th of October, the Spanish Minister answered his note of the 10th of the same month, in which, among other things, in speaking of the rejection of the Spanish liquidation, by the commissioners, he says, "that the Spanish Government will regard as a serious insult, that what in Spain is acknowledged as most sacred and respectable, should here be pronounced of no value." And again he says, that "his Catholic Majesty knows too well what is due to his own dignity, to the reputation of his Ministers, and to the integrity of his tribunals, to consent that a foreign commission shall deem itself authorized to revise their decrees."

The Board of Commissioners were not, however, to be intimidated by these high-sounding and pompous declarations of regal dignity and ministerial infallibility. Like honest men they adhered to the decision they had made, and which they believed to be correct. Mr. Meade continued to press his claim before the commissioners, but without producing any change in their decision, until the 15th of April, 1823; on which day Hilario de Rivas y Salmon, the Spanish *Chargé des Affaires*, who had succeeded Don Anduaga, addressed a note to the Secretary of State, repeating, in substance, the view which had been taken by his predecessor, of the rejection of the Spanish liquidation, as evidence, by the Board of Commissioners. To this note the Secretary of State replied, on the 29th of April, 1823, sustaining the decision of the commissioners, in rejecting the Spanish liquidation as evidence to support this claim. And I will here hazard the opinion, that no gentleman here, who will take up that reply, and the opinion delivered by one of the commissioners, and give them an attentive perusal, can doubt for a moment the correctness of that decision. Mr. Meade having failed to goad the commissioners to a favorable decision of his claim—having failed to intimidate them, by appeals to the Spanish authorities, and finding that they were sustained in their decision by their Government, at length, on the 18th of April, 1823, more than twelve months after he had been distinctly informed that the Spanish liquidation would not be received as testimony in support of his claim, applied to the commissioners "to require of the Spanish Government certain papers and documents," which, he alleged, he considered necessary to the establish-

ment of his claim, and which he specified. The commissioners promptly made the demand of the Spanish Government, through the Secretary of State. The Secretary of State instructed the American Minister to the Court of Spain, then about to sail on the duties of his mission, to make the demand of the papers specified, of the Spanish Government, and which they were bound to furnish, when so demanded, by the stipulations of the eleventh article of the treaty. The American Minister did demand them of the Government of Spain, several months before the period of three years, limited for the session of the Board of Commissioners, expired. They have never yet been furnished, (if, in fact, they exist,) so far as we have been informed by the claimant, or from any other source. We have no assurance that they ever will be.

From the review which I have taken of the facts and circumstances attending this case, upon what ground is it that the Government of the United States are now called upon to assume the payment of this enormous claim? Has not the United States performed, in good faith, to the letter and the spirit, every stipulation which she was bound to perform by the treaty? No gentleman will say she has not. The Committee of Foreign Affairs themselves, who reported this bill—with a majority of whom I differ in opinion, in relation to this claim—admit this fact. In the report of the committee accompanying this bill, they say: "Should this view of the subject be correct, it will follow that the responsibility of failing to furnish the papers ultimately rests with Spain; and that good faith must eventually require her to meet the consequences of this failure." Here it is distinctly admitted, by the committee themselves, that Spain, and not the United States, is responsible for the payment of this claim; and, if so, why should we gratuitously take it upon ourselves? If it is intended to revise the decision of the Board of Commissioners in this case—and such will unquestionably be the effect of passing this bill—I would remind gentlemen that, by the stipulations of the treaty itself, this Board were constituted, by the parties, the exclusive judges of what was "suitable authentic testimony," in support of any claim which might be brought before them. Their decisions, by the agreement of the parties, were to be final and obligatory, not only on the claimants, but on the parties themselves. From their decision no appeal was provided. This claimant has had every opportunity afforded to him of presenting his claim, and supporting it by testimony, before the commissioners, so far as the United States were bound to afford that opportunity, that all other claimants under the treaty have had. The Board was created, and continued its session for three years, as stipulated by the treaty. This claimant presented himself before that Board. The evidence he offered in support of his claim was rejected by the Board, as incomm-



petent to be received, at an early period of its session. When he applied to them to demand certain documents and papers from the Government of Spain, that demand was promptly made. No evidence was adduced by him sufficient to support his claim, and it was finally rejected. But it is urged that the claimant in this case could not procure the "documents and elucidations," necessary to support his claim, from Spain, in time to present them before the American commission closed its sessions; that Mr. Nelson, the American Minister to the Spanish Court, was delayed in his arrival there, in consequence of the blockade of Cadiz by a French squadron; that, when they were demanded by him, Spain failed to furnish them. The answer to this argument is, first, that Mr. Meade might, if he had not preferred another course, have applied to the Board of Commissioners to demand these "documents and elucidations" from Spain, immediately on being informed by them that the Spanish liquidation had been rejected. He was informed that the Spanish liquidation had been rejected, and that the original evidence was required, twelve months before he applied to the commissioners, to make this demand. If the demand had then been made, it could have been forwarded to Spain before the blockade had taken place, which prevented the speedy arrival of Mr. Nelson at the Spanish Court, twelve months afterwards. Mr. Meade, however, chose to take a different course. He chose to resist the decision of the commissioners, in rejecting the Spanish liquidation as testimony in support of his claim. He preferred to lodge complaints against them with the Spanish Minister. He suffered twelve months to elapse before he required them to make the demand. The next answer to the argument is, that Spain, having failed to furnish the "documents and elucidations," when they were demanded, violated the treaty; for, by the treaty, she bound herself to furnish them when demanded at the "instance of the commissioners." They were demanded at the "instance of the commissioners," and were not furnished. Spain, then, and not the United States, upon every principle, is bound to this claimant. Take another view of this claim. Admit, for the sake of the argument, that this individual had a just claim against the United States, but was unable to establish it, because he was unable to procure his testimony in proper time, it would be his misfortune, and not the fault of the United States. He would stand precisely in the same situation that all other claimants under the treaty do who failed to establish their claims, because they were unable to procure their testimony—and there are many such. Suitors, in the ordinary courts of justice, lose their causes daily for want of their testimony. It is their misfortune, and not the fault of the Government, or the particular tribunal that decides the cause.

But, to what will the passage of this bill lead? The United States only stipulated, in

the treaty, to pay claims "to an amount not exceeding five millions of dollars." That amount has already been paid. The whole fund has been exhausted. The commissioners adjudged, as valid, claims to the amount of about five millions five hundred thousand dollars. Each claimant suffered a deduction of something like 8½ per cent. of the principal of his demand, in order to be paid out of the fund of five millions set apart for that purpose by the treaty. Each received a *pro rata* of his demand. If I have been correctly informed, the amount of claims presented to the Board of Commissioners was about forty millions of dollars; and I see, from a document which I hold in my hand, to wit: a report made by a committee of the Senate of the United States adverse to this claim, at the first session of the Nineteenth Congress—the amount stated to have been presented is the same. The amount of claims, then, rejected by the Board of Commissioners, was about thirty-four millions and a half of dollars. If we once commence revising the decisions of the Board of Commissioners; if we once open the door, and commence paying, there is no end to the flood of rejected claims that will be pressed upon us. Your table, sir, is already covered with memorials, all waiting the event of this bill, and each assigning some plausible reason why his claim was rejected by the Board of Commissioners—some unavoidable circumstance beyond his control, that prevented him from procuring his testimony when his claim was before the Board of Commissioners. Rely upon it, sir, if you once disturb the decisions of the commissioners, there will be no difficulty in procuring specious pretexts and plausible reasons for the interposition of Congress, and, in many cases, fraudulent claims may and will be bolstered up and passed. If we once commence, we know not where we are to stop; and the United States, instead of paying five millions of dollars—the sum which she stipulated by the treaty to pay, and which she has already paid—may have to pay a vast amount more, never contemplated at the negotiation of the treaty. But it is insisted that the United States have, by the treaty, renounced the claim of her citizens to Spain; that they cannot now apply to Spain for payment; and that, therefore, the United States ought to pay them, though the amount should exceed five millions of dollars. The first answer which I have to make to this, is, that, in cases like the claim now before us, in reference to which Spain has violated the treaty, by failing to furnish the "documents and elucidations" demanded, she is not absolved from the obligation to pay. But the general answer is, that the renunciation was made at the instance and at the desire of the claimants themselves. The claimant before us desired it to be made. A general statement of his claim, unliquidated and unsettled, was filed with the Secretary of State, with that view. It should be remembered, that the value of a

FEBRUARY, 1828.]

*Claim of Mr. Meade.*

[H. OF R.]

demand depends as much on the ability to pay, and the prospect of obtaining it, as on its amount—and often more so. In this very case, at the date of the signature of the treaty, the claimant, as, indeed, all others who had claims, must have lost all hope of receiving it from Spain. The prospect, to say the least of it, was by no means flattering. For a series of years Spain had been troubled by disturbances at home and abroad. Her colonies were in revolt, a foreign army invading her territory, her finances deranged, her throne tottering to its base—*the prospect of recovery must have been a gloomy one.* The certainty of receiving a small modicum of a just demand, was preferable to the great delay and the hazard of losing all.

Sir, I have something to say in reference to the particular provisions of this bill; and I think, on minute examination, they will be found to be highly exceptionable. The bill proposes to refer this claim to a new Board, composed of the Attorney-General, and any two Auditors of the Treasury, for liquidation. The claimant in this case has not submitted to the Committee of Foreign Affairs, who reported the bill, any new evidence. We have no assurance that he has procured, or ever will procure, the “documents and elucidations” which he alleges are in the archives of Spain. We have no assurance that he can procure, or intends to produce, to this new Board, any evidence, other than that which he presented to the Board of Commissioners under the treaty, and which they rejected. We have no assurance, if we pass this bill, that this new Board may not reverse the decisions of the regular Board of Commissioners under the treaty, and receive as evidence this celebrated Spanish liquidation. Are we prepared to hazard this result? Are we prepared to submit the decision of the commissioners to the revision of this new Board? Are we willing to receive this Spanish liquidation in support of this claim, rejected, as it was, by the commissioners, and by the Secretary of State, under the advice of the President, as incompetent testimony? Sir, what is this Spanish liquidation? It is an acknowledgment by Spain of a debt due by her to this claimant—an acknowledgment made more than twelve months after the signature of the treaty. “The treaty, by its express terms, made provision only for unsettled and unliquidated claims. The United States assumed them as they existed, and had been exhibited at the signature of that instrument.” If Spain, subsequent to the signature of the treaty, acknowledged a debt to Meade, without the privity, knowledge, or consent of the United States, that acknowledgment will be binding on Spain, but not on the United States. Spain had no power, by any act of hers, after the signature of the treaty, to bind the United States. Her acknowledgment to Meade, more than twelve months after the signature of the treaty, is no evidence of a de-

mand existing at the signature of the treaty. The American Secretary of State, in his answer to the note of the Spanish Minister, to which I have already referred, says: “If the claims of Mr. Meade upon Spain were included among those provided for by the treaty, it was, in common with all the others, to be treated like all the others, and to abide the same issue with the others.” And in speaking of the effect of the acknowledgment of Meade’s claim, by Spain, he further says: “Nothing can be more clear than that Spain remains, at this hour, bound to satisfy, to the last real, every claim acknowledged by herself to be just, and which she had not the right to transfer to a third party, without the consent of the claimant.”

It is proper to remark, in conclusion, that Mr. Meade has, at different times, taken different grounds in relation to this claim. Before the signature of the treaty, he sought the interposition of his Government, he filed his claim, in its unsettled and unliquidated state. After he had obtained his acknowledgment from Spain, and when the treaty was about to be ratified by the United States a second time, he insisted that his claim was not embraced by the treaty. His counsel urged “that his claim was of a nature that the American Government had no right to interfere with Spain in its favor at all.” He then insisted that a separate article should be annexed to the treaty, providing for the payment of his claim to the full amount acknowledged by Spain. The President and Senate paid no regard to his memorial, but ratified the treaty. Mr. Meade afterwards insisted, before the commissioners, that his claim was embraced by the treaty, and that the Spanish liquidation or acknowledgment of it was conclusive evidence of its justice. Thus, it appears that Mr. Meade has himself, at different times, taken different views of his own claim. There is nothing in this claim that recommends it to peculiar favor. I will again call the attention of gentlemen to the answer of the Secretary of State to the Spanish Minister, to show what his opinion then was, of the merits of this particular claim. He says: “If the American Government could have admitted any discrimination between the claims, and that any one should have been privileged above the rest, Mr. Meade’s claim, if the present argument of his learned counsel is sound, would have been the very lowest on the list, and the least entitled to favor.”

I have detained the House longer than I anticipated when I rose. I am not in the habit of throwing myself often on its indulgence, and especially in relation to private claims. But this bill involves important principles and important consequences—it involves a very large expenditure of the public money; and, differing, as I do, with a majority of the Committee of Foreign Affairs, in relation to it, it was due to myself, and to the House, that I should submit my views.

MONDAY, February 25.

*Funeral of General Brown.*

The following resolutions were received from the Senate :

"IN SENATE OF THE UNITED STATES,  
February 25, 1828.

"Resolved, That the Senate have learned, with deep regret, the death of Major General Jacob Brown, the late Commanding General of the Army, and the distinguished leader in the glorious battles of Chippewa, Niagara, and Erie, in the late war.

"Resolved, That, if the House of Representatives concur, the Senate will, in conjunction with the House of Representatives, attend the funeral of Major General Brown, on Wednesday next at 12 o'clock."

Mr. HAMILTON, Chairman of the Committee on Military Affairs, said that he rose for the purpose of moving the concurrence of the House in the resolutions transmitted by the Senate; for he was assured that, whilst those who heard him felt the deepest sympathy in the distresses of the bereaved family of the late General BROWN, and the loss which the country at large had sustained, that they entertained the most unfading recollection of the valuable services of this distinguished officer, to whom emphatically belonged the distinction during the late war of having been the first to deprive the British bayonet of its reputed invincibility. The grave of such a man well deserves the tribute of a nation's honors, as well as its grief: I, therefore, move you, not only that the resolutions be concurred in, but that a committee of three be appointed on the part of this House, to meet such committee as the Senate may appoint, to make the necessary arrangements for the attendance of both Houses at the funeral of the late Major General BROWN.

The House unanimously agreed to the motion of Mr. HAMILTON, and the committee consisted of Messrs. HAMILTON, VAN RENSSELAER, and WARD.

WEDNESDAY, March 5.

*Tariff Bill.*

Mr. ANDERSON, of Maine, said: It is with extreme reluctance, Mr. Chairman, that I ever rise to address a committee of this House, and nothing short of an imperious sense of duty, can ever urge me to obtrude myself on their notice. But as the subject now under consideration is one of very great importance to my constituents, I feel myself compelled to claim the attention of the committee for a short time. I profess, sir, as well as others, to be a friend to domestic industry, and am prepared to give all necessary protection to every branch of this industry; but am not willing to build up one class on the ruins of another. Before we go farther in taxing this nation for the benefit of a limited number of individuals, we ought to inquire, seriously inquire, where we are to stop in this system of progressive protection. I see

no end to these complaints and applications for further relief. Pass this bill, and what comes next? We shall soon be told that still greater investments have been made, the business ruinous, and nothing short of prohibitions will save them; and when you shall have granted this, and secured to them our whole market—when their numbers shall have become formidable, and their influence irresistible, you will be required to establish a system of bounties to relieve future depressions.

I believe the tariff of 1824, if its provisions were fairly carried into execution, will give all the protection the manufacturing interests of this country ought, at this time, to receive, and would enable them, under all ordinary circumstances, to continue their business with a fair profit. This, some of the manufacturers themselves admit. If they have not realized the expected benefits of the tariff of 1824; if the provisions of that law have been evaded, or if foreign legislation has taken away the protection which that law was expected to give, I am willing, and shall feel myself in justice bound, to vote for a bill that shall effectually secure to the manufacturers the full and intended benefit and protection of that tariff. If the foreign manufacturer evades the existing duty by low and false invoices: or if, by a reduction of duty on the raw material by him used, he is enabled to send his goods to our market at lower prices than he could in 1824, I would give to our manufacturer an additional *ad valorem* duty, equivalent to this reduction of duty on the raw material of the foreigner; clothe our appraisers of imported goods with additional powers, and make every false invoice work a forfeiture of the goods, and a fine on the importer. This, sir, would, in my opinion, effectually prevent fraud, if any does exist, and secure to our manufacturer all the protection the tariff of '24 was intended to give. But, sir, while I am willing to do this, I am not prepared to vote for the bill before us, as it now is, or even after it is amended, as proposed by the gentleman from Vermont. I will not, sir, vote for prohibitions in any shape; and, between certain fixed prices, this bill does amount to a prohibition; and while I would sufficiently protect the manufacturer, I will never destroy a wholesome competition, which is the greatest spur to industry and economy, and the only pledge the public can have of fair and reasonable prices.

Sir, I am far from giving full faith and credit to all the statements in the petitions and memorials that have crowded in upon us without mercy, and almost without number—nor do I give the testimony, here taken, the weight I should give to the evidence of disinterested witnesses. I believe many of the manufacturing establishments of this country, under prudent management, are doing quite as well, yes, sir, and better than some other important branches of industry not claiming our protection; and much of the loss, difficulty, and em-

MARCH, 1828.]

Tariff Bill.

[H. OF R.]

barragement we hear of, arises from injudicious investments of capital, unnecessary expenditures, and, to make up the loss account, we see charged, salaries to owners, agents and sub-agents, and high commissions in purchase and sale charged by stockholders of the establishments. Even prohibition will fail to render some of these establishments profitable. But, sir, though, as I before observed, I am willing to secure to our woollen manufacturers all the intended protection of the law of '24, by an additional *ad valorem* duty, I cannot see the necessity of increasing the duty on iron, steel, and manufactures from them, distilled spirits, hemp, flax, and molasses.

Sir, I believe there is not a man in this nation, who would ever have thought of increasing the duty on these articles, had it not been suggested by the excitement and clamor raised by the manufacturers of wool. What evidence have we that these interests are suffering; or, if suffering, that they are any more depressed than any other branch of industry in our country? To be sure, we have the testimony of manufacturers themselves, some of whom, by reducing every thing to cash statements, show a loss. But, sir, in legislating for twelve millions of people, are we to rest on the profit and loss account of two or three manufacturing establishments? Look at them generally, and what do we see? What do these very manufacturers tell us? Why, that, notwithstanding all their losses, and all this depression, the business has increased, and is increasing. If this is such a ruinous business, why do we see new establishments growing up, and new investments annually making? Capitalists rarely calculate in this way. Prudent men never do. Investments are rarely made in business that is permanently depressed, but they are made when stocks are low and depression considered temporary.

What is the evidence on which we are urged to lay an additional duty on iron and steel? These, sir, are articles of the first necessity, used by all classes, the poor man as well as the rich, and, from their weight, are not susceptible of extensive transportation on land, and ought to come to our laborious citizens with the least possible charges. These manufacturers do not complain of want of skill or of a market. The whole testimony shows they are doing well; that they have increased, and are increasing; many of them have little or no competition from foreign iron, and all agree that their expenses have not increased since 1824. Sir, iron has been manufactured from the ore in this country for more than half a century; and if they have not already acquired the requisite skill, they never will, and I believe that those engaged in it would have been satisfied with the present protection, had not their aid been wanted to help through another item of this bill. On what evidence are we acting, while about to lay an additional duty on steel? It does not appear that a single manufactory of this article exists in the coun-

try, or that a single pound has ever been made here, and yet we are asked to increase the duty upon it fifty per cent. And for what? Why, the duty will then be so high, that some may be induced to try experiments, and thereby ascertain the fact whether we can make it or not. Pass the bill, sir, and I have no doubt many will try the experiment, and we shall then have them here, showing immense investments under the tariff of 1828, complaining of competition from foreign steel, and their ruin inevitable, unless we give one hundred per cent. more, and so we must go on as we have done, adding protection to protection, till we come to a general prohibition. Sir, in my opinion, it is all of a piece. We are about to impose on our citizens from fifty to one hundred per cent. additional taxes on articles of the first necessity, articles absolutely indispensable to their comfort and subsistence, to break up the branches of business in which they have for years been industriously and happily engaged, for the purpose of trying experiments.

As to hemp, it appears to me, it is abundantly protected. Just look at the prices of Russian and American hemp in our market, and it must convince any man that this article needs no further protection. Russia hemp now commands \$275 per ton, while American is quoted at \$125. If one hundred and fifty dollars per ton, is not a sufficient protection, what in the name of Heaven will be? The great complaint has been, that foreign manufactures, and articles of foreign growth, were underselling us in our own market; but this does not apply to hemp. And, if one hundred and fifty dollars per ton, or even one hundred dollars per ton, bounty, has not induced the grower of this article to prepare it properly for market, can we expect that ten or twenty dollars more will?

There is one class of manufacturers, and an important class too, who seemed to have escaped the notice of the committee—I mean the manufacturers of cordage. This bill proposes to put an additional tax of nearly one hundred per cent. on the imported raw material, to discourage its use, while your own testimony shows that you cannot or will not furnish them a domestic material fit for use. Yes, sir, while we have just sent our books to the farmers to teach them how to raise and prepare hemp for market, before these treatises have had time to reach them, and before we know whether our farmers can or will attempt to prepare it as prescribed, we are about to lay an additional duty on foreign hemp, progressing to nearly one hundred per cent. We have had before us, dissertations upon raising hemp, and statements of the relative strength of foreign and domestic yarns, to show that our hemp, when properly rotted, is superior to any other. But, sir, I had rather see one ton of it fit for use, than all the statements and experiments that have been made, or that can be made for twenty years to come. The manufacturers of

cordage are of the first importance to the country, and indispensable to our commerce; and while this bill will double the duty on their raw material, further to discourage them, it takes away part of the existing drawback on cordage, by deducting the weight of the tar used in manufacturing of it.

This deduction on the drawback will not amount to much protection to domestic hemp: for, while we imported, the last year, five thousand and twenty-two tons of hemp, the whole export of cordage was but one hundred and ninety-eight tons. This, of itself, shows the importance of this manufacture to our commerce, and that all the drawback on the tar must be small; besides, I have always understood, that the hemp lost, in working, all the cordage gained by the tar.

Now, sir, let us look a moment to the necessity of increasing the duty on duck. The principal owner and manager of one manufactory of this article has been here, and states, that it is necessary and expedient to give his establishment further protection. This witness, like all the others, wishes, of course, to advance his own interest. They all think, and are quite clear, that the interest of the nation requires their several manufactories should be further protected—to be sure, they are witnesses in their own favor, and if they do not make out a strong case, it is not our fault. But, in the course of the examination, we have the statement of a year's business of this duck manufactory, from which I should infer, that no further protection was needed. He states the capital invested, at \$170,000. The establishment, however, came into his hands at \$37,500. Last year, he made 7,010 bolts and pieces of duck, hammock cloth, and cotton bagging; of the latter, only 210 pieces, leaving 6,800 bolts of canvas and hammock cloth. The cost of flax, \$8 45 per bolt; cost of manufacturing it, \$5 05, making \$13 50 cost of the raw material, and the manufacturing it. The price of this duck, in the market, was \$15 50, giving a clear profit of two dollars per bolt, which, to say nothing of the profit on the cotton bagging, gives \$18,800 for that year. This gives an interest on more than \$226,000, on an investment at its greatest extent, of \$170,000. Certainly, a business affording such a profit, requires no further protection. Again, sir, I find, on looking at the contracts made with the Navy Department, for the year 1827, which have been laid on our tables since this examination before the Committee on Manufactures, that this same witness, I presume so from the name, has contracted to supply the Navy with six different kinds of duck, at prices from nineteen and a half, down to sixteen and a quarter dollars per bolt, averaging \$17 60 per bolt. This gives a profit of more than four dollars per bolt; and if he is as fortunate in his sales as in his contract, the \$170,000 invested in that establishment, will give him an interest on \$450,000. If this establishment requires fur-

ther protection, I think gentlemen will be puzzled to find one that does not.

Connected with the testimony relative to duck, we have a piece of hearsay evidence, showing a system of fraud practised by our merchants to avoid the existing duty. The witness says he has heard that our merchants are in the habit of sending out their vessels with old worn sails, and are supplied in foreign ports, to avoid the duty. This, sir, is a "story for marines." Can any man in his senses suppose, that our merchants would risk their vessels and cargoes for the sake of such a pitiful saving as this? Even if a merchant could be found so consummately stupid and foolish as to attempt such a saving, he could not succeed. Sir, the seamen, the moment the sails shook out, before they cleared the land, would refuse to proceed, and risk their lives in a vessel thus fitted out; they would demand a survey, and upon such survey, she would be declared unseaworthy, with a suit of such sails as are here described. Again, sir, most, if not all, of our merchants engaged in a trade where they could supply themselves with duck cheaper than in this country, are insured—and can we suppose they would pay premiums of insurance when they knew, in their own souls, their vessels were not fit for the voyage; and the deficiency so apparent and so easily proved as this would be? No, sir, no merchant will ever risk his capital to this extent, merely to avoid paying a little duty. Sir, duck, hemp, and iron, are the three great articles of consumption in building and equipping our vessels, in which business a vast amount of mechanical labor now finds constant employment. If, while our merchants are barely able, by greater economy in building and equipping their vessels, and superior energy and activity in sailing them, to compete with foreign commerce, you enhance the price of our tonnage to the extent this bill proposes, you will strike a blow, from which our commerce may never recover. It must and will dwindle, and finally sink under such exorbitant taxation.

THURSDAY, March 6.

### *Tariff Bill.*

On motion of Mr. MALLARY, the House resumed the consideration of the Tariff Bill, the question being on the motion of Mr. BARNEY, to strike out the first section.

Mr. FLOYD, of Virginia, after some remarks on the course which the debate had taken, owing to the form of Mr. BARNEY's motion, and some observations about the price of corn, &c., suggested to gentlemen on both sides of the question, whether it would not be better first to let the bill be so modified by amendments as to give it the most acceptable form, before they proceeded to the general argument on the question of its adoption.

Mr. BARNEY, after explaining the reason why

MARCH, 1838.]

Tariff Bill.

[H. OF R.]

he had, under the rules of order, been obliged to make his motion in the form he had, in order to reach the other parts of the bill in debate, which were not included in the amendment of Mr. MALLARY withdrew his motion to strike out the first section; and the question now recurring on the amendment of Mr. MALLARY,

Mr. HUNT observed that, for many years past the public attention had been directed, with a deep interest, towards the establishment and progress of domestic manufactures. Their salutary effect on agriculture, said Mr. H., by furnishing a ready and profitable market for the productions of the earth—the enterprise of our citizens—the immense multiplication of the productive power of labor which they create by means of machinery, and their essential aid in rendering us independent of foreign nations, are among the reasons for requiring the fostering care and protection of Government.

When I arose yesterday to address the Chair, it was not my intention, neither is it now, to discuss the general merits of this bill, or the amendment as proposed by my honorable friend, the Chairman of the Committee on Manufactures, and which he supported with great ability and force of argument; but to submit my views upon one subject which has been incorporated into the bill, and which, according to my understanding, has no natural connection with the other great objects contained in it. The effect of its introduction, as I apprehended, will be to embarrass, rather than to promote the accomplishment of that system which so many gentlemen in this House, and so large a portion of this country, have in view. The subject in the bill, to which I allude, is the one which relates to the increase of the duty upon foreign molasses, and the repeal of the drawback upon the exportation of spirits distilled from that material.

Petitions and memorials from various parts of the Union and from all classes of citizens, have been crowded upon our tables during the whole of the present session, praying for the interposition of Congress to afford some aid and relief to the great agricultural and manufacturing interests of this country, by increasing the duty upon foreign wool, woollen goods, iron, and various other articles; but amidst this general expression of the public voice, not a whisper has been heard for augmenting the duty upon molasses. Even the manufacturers of this article have not desired it. They are satisfied with the profits and protection which they now enjoy, and well may they be so, for it is a fact well understood, that the sugar plantations of Louisiana, where the New Orleans molasses is manufactured, afford a greater amount of profit than any other branch of agricultural employment in this country. In that part of the State which is congenial to the growth of the sugar cane, almost the whole industry is directed to its culture; and such is the avidity with which capital is seeking for an

investment in this business, that legislative enactment would hardly be able to accelerate its increase. Since the year 1824, it is estimated that the production of sugar and molasses in Louisiana has been doubled, and the produce of the last year swells to the prodigious amount of 80,000 hogsheads of sugar, being equal to 88,000,000 of pounds, and 5,000,000 gallons of molasses. This business, therefore, requires no additional aid or stimulus from Government; it does not, like many other kinds of employment, present the melancholy spectacle of languishment, ruin, and decay, for want of protection.

The gentleman from Pennsylvania (Mr. STEVENSON) informed us that the present project of increasing the duty on molasses, is not the first one that has been offered to Congress, but that a report was made by a committee some few years ago to this House for the same purpose. If, however, we look into the history of the legislation upon this subject, we shall find that Congress has always guarded this article with a seeming anxiety, from high taxation.

By the first act under the present organization of this Government, passed July 20, 1789, laying a duty on goods, wares, and merchandise, imported into the country, the impost upon molasses was two and a half cents per gallon. The experience, however, of one year, convinced the nation that the revenue was too inadequate for the support of Government and the discharge of the public debt; and on the tenth of August, 1790, a new act was passed, increasing the duties, adding about 50 per cent. on sugar, spirits, &c.; but only one-half a cent per gallon upon this article. By the several acts of 1792 and 1794, further additions were made to the duties upon most foreign goods, but no increase was made to the tax on molasses. But when a new era occurred, and extraordinary expenditures were required for enlarging the navy, and supporting a standing army, when in the course of four years succeeding '96 more than \$17,000,000 of loans were authorized; when the direct taxes were imposed; when bohea tea was subjected to new duties; and eight cents per bushel were added to the previous tax upon salt; then it was in company with these taxes, that the further sum of one cent per gallon was added to molasses in the year '97, and one cent more in 1800, making the whole duty five cents per gallon, beyond which it has never been advanced in time of peace.

Soon after the commencement of the late war, an additional duty of one hundred per cent. was made to the permanent duties by the act of July 1, 1812, but limited, however, in its operation, to one year from the conclusion of peace. After the occurrence of that fortunate event, in 1816, the whole subject of the revenue underwent a full and thorough revision; and at that period, when we had just emerged from war, with a debt of \$120,000,000 upon our hands, the duty was established at five cents

per gallon; and now, when half that debt has been discharged, and must by the necessary operation of our present system of finance, be entirely extinguished in the course of six or eight years, we are called on to impose upon the people a double duty, a war tax, upon an article, too, which use has rendered one of the necessities of life.

The prime cost of molasses in the West Indies depends upon its quality, and varies from five to twelve and a half cents per gallon, making the average price eight cents and three-quarters; and while some parts of the country oppose with zeal and vehemence any addition to the present duties of 25 and 33 per cent. upon woollen cloths, we are urged to impose a double tax upon molasses, which is equivalent to an *ad valorem* charge of one hundred and twenty per cent.

From the year 1820 to 1826, inclusive, the average annual amount of molasses imported, was 12,806,948 gallons, producing a revenue of upwards of \$640,000 per annum. The tax for this portion of the public revenue is manifestly unequal in its operation upon the different sections of the Union. The principal part of the foreign molasses is consumed in New England, New York, and a few of the States bordering upon the Atlantic; while amidst the great mass of population at the West, it is but seldom introduced, and its consumption is small and limited. In many sections of that country a great abundance is easily manufactured at home, and the balance of the supply, supposed to be about 2,000,000 gallons annually, passes from the plantations of Louisiana up the Mississippi, the Ohio, the Illinois, and the Missouri.

The tax is not only principally paid by the eastern States, but what renders its operation still more severe and unequal is, that in those States the poorer part of the population pays the greater portion of the tax, as they consume, in proportion to their numbers, larger quantities than the rich. They daily use it in their humble fare, upon their cakes and their puddings; and as a cheap substitute for sugar in tea, in all sorts of cookery, and for other domestic purposes. It enters copiously into the composition of beer, and various kinds of drink, as a wholesome and valuable substitute for ardent spirits; and it produces a moral influence upon society, by affording a protection from inebriety, and the ruinous habits of intemperance.

We possess no data for determining with accuracy the quantity of molasses that is consumed in any particular State or section of country. From the best information which I have been able to obtain, I estimate the annual consumption of molasses in the State of Vermont, at five hundred thousand gallons, being somewhat less than two gallons to an individual. Upon this amount, which I think will not be regarded as excessive, it follows that the national Treasury now draws from the inhabitants of that State, upon the present duties,

\$25,000 per annum—a tax that is sufficient to defray one-half of the expenditures of the State Government, and already heavy upon a people that enjoy none of the countervailing advantages of commerce—public works and expenditures, canals, national roads, or the gratuities of public lands.

The proposed augmentation of duty would materially diminish the amount of importation, and destroy some, and impair all, of the important interests that are now dependent upon the various branches of trade in this commodity. It is a trade far different from that with Great Britain, where there is no reciprocity of interchange; where, notwithstanding we receive millions of her cloths and manufactures every year, yet all the productions of this country, with two or three exceptions, are excluded from her ports with as much rigor and anxiety, as if they carried pestilence along with them. But our trade with the West Indies is carried on by barter—agriculture is concerned in its successful prosecution. Our beef, pork, butter, cheese, rice—all the fruits of the earth, live stock, household furniture, saddles, hats, shoes, and the products of the workshops, are readily received in the West Indies in exchange for this commodity.

The lumber business, which is of vital importance to many parts of the country, would, by the imposition of double duties, become annihilated, as the honorable gentleman from Maine has already evinced with great clearness and ability. During the last year, there were two hundred and three clearances from the single district of Portland, to the West Indies—28,000,000 feet of boards, scantling, &c., were exported, and the return cargoes brought home 3,890,321 gallons of molasses. This business, although large and extensive, in which a great portion of the population of Maine is engaged, is by no means lucrative, and it does no more than repay the ordinary wages of labor. And if you double the duty as proposed, you do in effect put a tax upon the lumber business of not less than 200,000 dollars per annum; and it must cease to exist. The burthen would be too heavy to be borne, and beneath the pressure of such a weight it must inevitably sink.

The fisheries, where are formed the bone and sinew of the navy, and which the vigilant policy of our Government has ever delighted to encourage and protect, would wither at the loss of any important branch of our trade with the West Indies. During the five years from 1822 to 1826, the dried and pickled fish, fish and whale oil, spermaceti candles, &c., which were sold in the West Indies, amounted, upon an average, to \$989,776 per annum, being about twice the amount which was exported to all the other parts of the globe. These islands are the great foreign receptacles for our products of the sea. It is there the hardy fisherman, who spends his toilsome days and watchful nights upon the banks of Newfoundland, or who, with more adventure, doubles the far-

MARCH, 1828.]

Tariff Bill.

[H. OF R.]

these Capes, and pursues the whale through every sea, may find a market for the product of his toils.

There is another interest of long standing in this country, that of distilling molasses, which would necessarily be ruined by doubling the duties, and repealing the drawback which is now allowed upon the exportation of the spirits; and this appears to be the object of those who support and recommend the measure. It will be recollected that the prime cost of this article in the West Indies is but small, and that its chief value is imparted to it by the industry and labor of our own citizens. We furnish the casks which contain it, the vessels which transport it, and the hands who perform the voyage. To every gallon of molasses that is distilled, not less than twenty-five cents of its value is created by American industry and skill; and if, as the gentleman from Pennsylvania supposes, 8,000,000 of gallons are yearly converted into spirits, it follows that 2,000,000 dollars' worth of labor is required for such a production. If the sound policy of this country requires the entire suppression of this business, and this is the only object which the gentlemen have in view, let us accomplish it in the plain and simple manner, by putting a tax upon the distilleries, and not by imposing new and enormous duties upon the consumers of molasses.

The amount of foreign molasses that is annually distilled in the United States, cannot perhaps be ascertained with certainty. We are, however, in the possession of certain facts from which we derive an opinion, that the quantity is not large, and that the estimate formed by the honorable gentleman from Pennsylvania is much too high.

From the year 1790 to 1800, both inclusive, the whole quantity of molasses imported into the United States was 53,823,607 gallons; and by a statement derived from a report of Mr. Gallatin, it appears that the spirits distilled from the same was 23,143,404 gallons, being 2,104,400 gallons per annum; and this was at a period when the exportation of these spirits was much greater, and the distillation from domestic materials much less, than at present. By the testimony taken before the Committee of Manufactures, it appears that the distilleries in the neighborhood of New York, at Hudson and Albany, manufacture only about 350,000 gallons per annum; and that the quantity distilled in all that part of the country, including Jersey City and Staten Island, is less by one-half than it was in 1812. In 1810, it appears in the returns made by the marshals, that the quantity of spirits distilled in the United States from molasses, was 2,827,625 gallons; and since that period, the presumption, I think, may be fairly deduced, that the whole quantity has been diminished rather than increased.

The repeal of the drawback, as proposed in the bill, would entirely prevent the further exportation of this kind of spirit. Such an operation, however, would seem manifestly repug-

nant to the true policy of the country; for so long as the distillation shall continue, the greater the exportation, the larger will be the space for the market of gin, whiskey, and other liquors, manufactured from domestic materials.

Mr. OLIVER said he was decidedly opposed to the principles of this bill, and more so to the amendment offered by the gentlemen from Vermont. His constituents would, he thought, be seriously injured by the passage of either. He would, by way of preface, state a few facts, which would show the truth of this declaration. The soil of the section of country he represented, was by no means ungrateful. The climate was favorable to the cultivation of most of the articles necessary to the comfort and accommodation of man. Nevertheless, from the earliest settlement of the country to this day, the people have devoted their time and labor to the culture of tobacco, almost exclusively. It was to the sale of that article they looked for the education of their children, the payment of their debts, and the purchase of many articles from the people of the west and northwest section of our country, and the purchase of various articles of merchandise of foreign and domestic character. When he mentioned those facts, it would at once be seen what a deep interest they take in this question. This circumstance urged him to participate in this debate. He feared he did not possess that elocution (call it by what name you please) which was calculated to fix and retain attention. But, said he, if I had but one pebble from a brook, I would nevertheless advance to the discussion of this interesting question. Some gentlemen suppose that we, who are opposed to this bill, are opposed to all "tariffs;" but it is not so. Who is there—what intelligent citizen is opposed to a moderate, judicious, and constitutional tariff? None; no, not one. The constitution gives to the General Government great powers. It has surrendered the purse of the nation to Congress. At the moment of the surrender, the framers of the constitution knew the magnitude of the grant. They knew that man was fond of power, seized it with avidity, and was prone to abuse it. They knew, too, that in bad times, bad men might convert the power of taxation into levers by which to raise the moral and political world from their proper places. Hence the framers of the constitution threw around the grant of power to impose taxes, wise and salutary restrictions, on the observance of which, every thing depended. Do you wish this Government to attain an enviable perpetuity? Do you wish it to stand like a rock in the ocean of time, superior to the storms of faction, and assaults of ambition? Regard those restrictions. Yes, the constitution authorizes you to levy direct taxes—on the lands, houses, and slaves of your citizens. But, sir, this is a power too delicate and dangerous for the Government to exercise in this country, except in difficult and trying times. It can only safely be exercised in war, or in preparing for war. In such a



contingency, it would be acquiesced in; nay, supported by the people. The pride of valor, and the love of country, would then sustain its exercise. The framers of the constitution knew this, and hence they provided that the General Government, from time to time, might impose such duties on imported articles as would be sufficient to sustain the Government in the exercise of its delegated powers, pay the public debts, and defend the country. In the imposition of duties on imported articles, you may go to the utmost verge of those great constitutional limits; beyond, the ground is holy, and, for one, I will not occupy it. Demonstrate that additional duties on imported woollens, &c., &c., are necessary to support the Government, pay the national debt, and defend the country; and if other articles on which it is more prudent to lay them, cannot be found, then I shall consider myself bound to support the general system; but that is not pretended. The present revenue is not only sufficient to support the Government, fortify the seaports, and increase the navy, but to pay off the debt as fast as it becomes due. Sir, by the constitution, you can impose duties only for revenue. Examine the constitution, line by line, sentence by sentence, and show, if you can, a clause which authorizes duties on imported articles, for purposes other than revenue. In my opinion, such grant of power cannot be found. If it had been the intention of the framers of the constitution to have authorized the imposition of duties for any other purpose than revenue, would they have omitted science—that science which contributes more than any thing else to the preservation of our free institutions? The provision in the constitution which authorizes Congress to secure for a limited term of years to artists and authors the fruits of their labor, confirms me in the opinions I have expressed. Why then did they omit to give to Congress a grant to effect, if in their power, a wide spread of science? That science which paved the way to our independence, and secured our civil and religious liberties;—that diffusion of knowledge, that expansion of liberal opinion, which caused every man to estimate his own importance—to feel that he was something, and not a cipher on the muster roll of human beings—that science which has proclaimed, and now maintains the independence of South America; and, at this moment, is raising the descendants of Leonidas and Solon from the dust, to which they have been bound down for the last five hundred years by the iron hand of oppression, and is again exhibiting them on the classic fields of Greece, in all the port and attitude of freemen? I answer, and say it was not one of the purposes for which the federal constitution was formed. Like every thing else, the care whereof is not expressly delegated to the General Government, it is left to the States, in other words, is retained by them. I shall hereafter mention other things just as important as manufactures, which are not named in the constitution, and

of course are beyond the control of the National Legislature.

When he saw great masses of the community quitting the cultivation of the earth to glean a living on the seas, or within the walls of a sickly manufacturing establishment, his mind was hurried into the opinion that the earth was burthened with a population beyond its ability to support, no matter how great the labor devoted to its cultivation. If this state of things in the occupations of men is brought about when the earth is able to maintain them, some writers have imagined it is produced by the mal-administration of the Government. The cultivation of the earth is the primitive and favorite pursuit of man.

If there be a chosen race of men, may we not say 'tis the farmers, planters, and agriculturists. Among them you rarely see the shivering pangs of want; to them ambition never yet turned in pursuit of fit materials for civil strife and political volcanoes. In them you behold the votaries of truth, and disciples of liberty, ever ready to show that devotion to the country, which is due to a just Government and wise system of laws. When the population has advanced to that point, that the soil will not maintain it, the eagle eyed sagacity of the citizen will open to him the road to such employments as will best maintain him. There will be no necessity for the Government to resort to a hot-bed system of legislation, to force into premature existence, a number of sickly manufacturing establishments, that will want constant aid from the Government. When the population advances to that point, Government has only to afford protection to all. Secure to every man, by an even-handed justice, the fruits of his labor, whether that labor is devoted to the cultivation of the earth, the navigation of the seas, or the labors of the loom, anvil, or hammer. Need I go further than our own country, for a happy illustration of the results flowing from a system of Government, founded on the mild and philosophical principle I here advocate? Under their influence, we have, from small beginnings, grown up into a great people—worthy the respect of the world. Sir, we must become a great agricultural, commercial, and manufacturing people. We must become, I say, a great agricultural people—we have a sufficiency of arable land, for the accommodation of the people of the present day. Nay, more, for the accommodation of our probable population, for five hundred years to come.

This incessant augmentation of duties on imported articles to favor manufactures, is a dangerous procedure. The politician advances to his subject with great circumspection, and by prudent and wise retreat, he is not only frequently enabled to regain his ground, but go beyond the triumph he at first meditated. If, then, we must be a manufacturing people, let it be by a slow process. Where do we get our examples to follow? not from Genoa and Venice. They sprung, as it were, from the sea; they

MARCH, 1838.]

*Tariff Bill—Wool and Woollens.*

[H. OF R.]

were destitute of territory to cultivate; they could not say as we do, with reference to our soil, *Locus est e pluribus umbris*. Necessity made them merchants and manufacturers. How long did Great Britain exist as a nation, before she soared to unrivalled excellence in commerce and manufactures? I answer, until her population advanced to that point that the soil could not maintain it; then her manufactures and commerce flourished. The progress we have made is, indeed, wonderful. Be patient; an improvident step might be productive of inconceivable mischief. Do we expect to maintain, in a moment, that which in older countries has been more than equal to the labor of ages? Can you abolish the woollen, molasses, and iron trade at a blow, and turn some twenty thousand persons engaged therein to other pursuits, without serious mischief? Our Legislature has been reproached with stepping beyond the age we live in. A wise legislation looks to the present moment, as well as to futurity. As it lays the foundation for bettering the condition of the people of the present day, it paves the way to better the condition of posterity. If manufactures are necessary to our independence, they will grow under existing circumstances.

The history of the tariff in this country deserves some notice. There have been four revisions: in 1789, 1816, 1820, 1824. These have invariably been effected by compromise. To break in so frequently on the system, and extend the duties, produces jealousy, dissatisfaction, and strife. It keeps the price of labor and property constantly fluctuating. It unhinges the confidence of the people in your laws, and it disorders the circulating medium of the country. This incessant advance in duties entices people to embark in manufacturing establishments, with an impression that the Government will sustain them at all events, and make their labor productive. The course pursued by Congress in 1824 has led to this effort to increase the duties. It will be remembered that that enterprising State, now the most extensively engaged in the woollen manufactures, was then opposed to increased duties on foreign woollens. If I am rightly informed, but a small minority of their representatives here voted for the bill of 1824. That State, I am told, is now at the opposite point, and for greater increase. Sir, your legislation seduces your citizens to invest time and money in those establishments; and unless you take a firm stand, you must end in the Chinese system of exclusion. In 1824, the vote of the Massachusetts delegation encouraged a belief that the manufactures there, were then prosperous; the increased duties laid that year seduced very many to invest their capital in woollen manufactures. Many entered into the business, no doubt, with borrowed capital. What followed? That which was to be apprehended: competition was encountered at home, and from abroad. The profits, at first large, are reduced and now

comes the application for further protection; and no doubt, in my mind, it will be continued until it works a total exclusion. I say total exclusion. Think you that you can constrain the nations of the earth to buy your produce exclusively with money? China has heretofore done so. It is said, by a Roman writer, that the East India trade was the gulf into which flowed the wealth of the world, from the first dawns of civilization to his time; and I say, it continues, in a measure, so to this day. But if their wealth in the precious metals has increased—in science, arts, and morals, they yet rank among the half-civilized nations of the earth, and we shall hardly take them for our models. This system of exclusion I can never agree to; a mutual exchange of commodities, or free commerce, makes the most distant people friends, and converts the universe into a community of brothers.

MONDAY, March 10.

*The Tariff Bill—Wool and Woollens.*

The House went into Committee of the Whole, Mr. P. P. BARBOUR in the chair, on the Tariff Bill.

Mr. WRIGHT said he was a member of the committee which reported the bill to the House. He was one of the majority of that committee who agreed to the bill in its present shape; and candor compelled him to admit the truth of the statement made by the honorable Chairman of the Committee on Manufactures, that he was made the organ of the majority of the committee in drafting the imperfect report which accompanied the bill. Therefore, sir, (said Mr. W.) I am justly chargeable, to a great extent, with the errors, if errors there are, in that report. This addition to my public duty as a member of this House, compels me to trouble the committee with the reasons which brought me, and which I believe brought a majority of the Committee on Manufactures, to agree to the bill now upon your table. I am not, however, prepared to debate this bill otherwise than in detail, and upon its several provisions; and therefore I have withheld my remarks until the amendment proposed by the honorable chairman should become the question before the committee. That I now understand to be the question, and to that it shall be my object to direct my remarks. Yet, sir, I fear if I should promise to be concise, I should not be able to perform that promise. It will be impossible for me to present my views within as short a time as I could wish; and I shall be compelled to make some references to the testimony taken before the Committee on Manufactures, and to go into statistical calculations, which will be dry and uninteresting to the committee, and, I fear, scarcely intelligible to those who may have the patience to listen. I will endeavor, however, to make them as clear and plain as I am able, and to give the grounds

upon which they are made, so that their accuracy may be tested. And here, sir, it is my duty to premise that it has been my object, and I believe it to have been the object of the majority of the committee, to frame a bill which should have in view the protection of the leading interests of the country. I have supposed that in all laws having a reference to the protection of the domestic industry of this country, agriculture should be considered the prominent and leading interest. This I have considered the basis upon which the other great interests rest, and to which they are to be considered as subservient. Still, this is not to be considered as entitled to protection, exclusive of the manufacturing interest. I do not believe that a law which would be injurious to manufactures would be beneficial to agriculture; but I do believe that protection to manufactures should be given with express reference to the effect upon agriculture, and that no protection can be wise, or consistent with the policy of this Government, which has not for its object, to add strength and vigor to this great and vital interest of the country. The same may be said of the commercial interest, as it also is only subservient to the great interests of agriculture.

But, sir, it will be found difficult, if not impossible, to draw a bill intended to furnish general protection to the domestic industry of this country, which will not, in some of its provisions, operate injuriously upon some one of the interests concerned, and in some sections of the country. One leading principle, however, which operated upon my mind in the formation of the present bill, is that it is not, and cannot be the policy of this Government, or of this Congress, to turn the manufacturing capital of this country to the manufacture of a raw material of a foreign country, while we do or can produce the same material in sufficient quantities ourselves.

This I consider to be a rule of universal application, and to extend itself, not only to the same raw material, but to any which shall be equally valuable, and may be substituted for the raw material imported; and I cannot suppose that, in legislating for the protection of the industry of the country, this rule should ever be lost sight of. If the time should arrive when there should be a surplus of labor in this country, and when the cultivation of our soil, and the manufacture of its productions, should not require the employment of all the labor of the country, then a different rule might be applicable; then it might be sound policy to encourage the importation of foreign materials, that their manufacture might employ any surplus of domestic labor. This principle it is my intention to apply to the subject of wool and woollens now before the committee. I am aware that the question involved in that part of the bill now under consideration, and the proposed amendment, is one of the most interesting and important embraced in the whole

bill. It occupies much of the feeling, both of the manufacturer of wool and the wool grower. It touches the interest of both, and it would be very difficult even for experience to say what would be relatively just between the two interests. But, sir, if constant reference is had to the facts which appear in the testimony taken before the Committee on Manufactures, and to the statistical information which they have been able to collect, something like an approach to certainty may be attained. This examination has been taken with this view, and it is or is not to answer any valuable purpose, as this bill shall or shall not be discussed with reference to the facts it discloses. With that reference it shall be my business to discuss the proposed amendment, and my observations shall be, as far as possible, directed to this testimony, as the foundation of the positions which I shall attempt to establish.

The first proposition in the order of the bill and amendment, is the proposed duty upon wool. This, by the bill reported by the committee, is fixed at a specific duty of seven cents upon every pound of wool, and an increase of the ad valorem duty, now imposed by law, of 30 per cent. to 40 per cent. with an extension of that ad valorem duty to all kinds of wool.

The amendment proposes that all wool, costing in a foreign country 8 cents per pound, or under, shall pay the present duty of 15 per cent. ad valorem only, and imposes a specific duty of 20 cents per pound upon all wool costing more than 8 cents per pound in a foreign country, without reference to its value. It will be readily seen that the proposed duty of 15 per cent. ad valorem upon the coarse wools costing 8 cents per pound, and under, is merely nominal, and cannot answer to check the importation of those qualities of wool. One of the reasons assigned by the honorable Chairman of the Committee on Manufactures for proposing to encourage the importation of these qualities of wool under a nominal duty, is that the same qualities of wool are not produced in this country; that the manufacturers are bound to import them; and that if they are excluded, their place cannot be supplied by our own wools. To these positions I cannot yield my assent. I do not believe the fact to be so. I believe the United States now produce sufficient quantities of coarse wool for every demand of the present manufactories. But suppose this is not the case; suppose the qualities of coarse wools imported are not, and will not be produced in this country: What then? Is it sound policy to import them free of duty? I must first answer another question before I can yield my assent to this policy. Does this country now produce wool of any quality sufficient to give full employment to its manufacturing capital? If I can answer this question affirmatively, then I should certainly answer the other negatively; for I have already said, I consider the principle perfectly sound, that it is not, and cannot be,

MARCH, 1828.]

Tariff Bill—Wool and Woollens.

[H. OF R.]

for the interest of this country, to import a foreign material for the use of her manufactories, when a full supply of the same material of domestic production may be obtained.

I will then, Mr. Chairman, endeavor to show that the United States do now produce, and will in all future time produce, as much wool as we have now, or shall have capital to devote to the manufacture of this article; and as one mean of arriving at this conclusion, I will refer to the evidence taken before the Committee on Manufactures, to determine the present state of the wool-growing business in this country, and to see what the qualities and now relative prices of domestic wools are.

[Here Mr. W. quoted from the evidence given before the Committee on Manufactures, the answers of Messrs. Garrow, Dexter, Tufts, Sheperd, Phillips, *et al.*]

This, Mr. Chairman, closes the information as to the wool-growing business, which is to be derived from the testimony taken before the Committee on Manufactures. It does not contain any certain data from which to determine the whole quantity grown in the United States, but it does show that the deficiency is found only where most of the manufactories are located. The witnesses who testify are from widely distant sections of the country, and each speaks of the surplus or deficiency of his own section. From examining this testimony, it will be found that the deficiencies mostly exist in Massachusetts, where far the greatest number of manufactories are established, and in Delaware, where little wool is grown; while in Vermont, New York, Pennsylvania, Ohio, and the upper parts of New Hampshire, a greater or less surplus is found to counterbalance these deficiencies. It will also be found, as appears by the testimony of Mr. Dickinson, that when the coarse wools of the country are sent to our markets, they are sent at a loss; they do not sell, while the foreign coarse wools do sell.

But, sir, I have endeavored to find data from which a calculation of wool grown in the country might be made, and I have adopted the most certain which I have been able to discover. I am free to confess that this is vague and uncertain, but I have searched for better in vain: it is not within my reach, and I do not believe it to be within that of any man. I have, however, made a partial calculation, which I will give to the committee, together with the data upon which it is founded. In 1825, a census of the State which I have the honor in part to represent, was taken, and by the law directing the taking of that census, certain statistical information of that State was also directed to be obtained, by the persons appointed to take that census. Among the facts thus obtained, and I cannot doubt, correctly obtained, an enumeration of the sheep then in the State of New York was taken, and it was found to be 3,496,589. Since that time, it is equally difficult, if not impossible, to tell with

certainly the rates of increase, and of consequence, to determine the present number. I have, however, supposed what may, and what may not, be true, that the six New England States, and New Jersey, Pennsylvania, Ohio, Delaware, and Maryland, possessed an equal number of sheep, in proportion to their population, with New York, in the year 1825. These States then, would, in 1825, have possessed 10,818,189 sheep. I doubt whether the State of New York at that time exceeded in its number of sheep, the ratio of the other States named; but when, in the calculation, the remaining States, contrary to what is known to be true, are supposed to possess no sheep at all, this allowance must surely be sufficiently large to cover any excess, if any existed, in the ratio of New York; and the calculation must be safe against the danger of producing too large a result. The whole number of sheep, then, in 1825, in the United States, would be 13,809,678.

As the only rule upon which the increase, since that time, can be calculated with any safety, I have taken the testimony of Mr. Schenck, to which I have before referred. By the census of New York, to which I have just referred, it will be found that there were in the county of Dutchess, in that State, the county in which Mr. Schenck resides, in 1825, 174,010 sheep. Mr. Schenck now testifies that there are according to the best information he has been able to obtain, in that county, at this time, 300,000 sheep, making an increase, since 1825, of something more than 70 per cent. That county is a wealthy and extensively agricultural county, and it is surrounded with others equally so, in proportion to their population; and I know not why the rate of increase of sheep in this county since 1825, should not be good evidence of the rate of increase in the neighboring counties, and, indeed, in the whole State. I therefore assume that the increase of this kind of property in New York has been 70 per cent. since the taking of the enumeration of them in 1825. By the same census, the number of yards of cloth manufactured in the domestic way, and not including that manufactured in the manufacturing establishments, together with the various descriptions, so manufactured, was ascertained. Determining, then, as nearly as I can, from the testimony taken before the Committee on Manufactures, the quantity of wool which would be consumed to make the cloth manufactured in the domestic way in that State, I find that New York alone would, in 1825, have afforded two millions, and, perhaps, two and a half millions pounds of wool, for the use of the manufactories of the country, beyond what was required for the domestic or family consumption. But New York then possessed less than one-fourth of the whole number of sheep, according to the calculation I have made; and if the other States, named as wool-growing States, did, at that time, furnish as large a surplus, over and above the wool manufactured in the domestic way,

in proportion to their respective populations, as did New York, how would this whole surplus, appropriated to the use of the manufactories, compare with the quantity they require?

The whole amount of woollen goods consumed in this country is variously estimated, at from fifty to sixty millions of dollars in value. One of the witnesses, and the only one, I think, who makes an estimate upon it, puts the value at fifty millions. The honorable chairman (Mr. MALLARY) says, he has seen an estimate at sixty-two millions. Suppose sixty millions to be the correct amount consumed. Of these, near ten millions, or between eight and ten millions, are imported; leaving not far from fifty millions to be, and which now are, manufactured in the country. What value of wool, then, is required to make this value of goods? By the testimony it will be seen that the value of the wool, as a general rule for this country, at present prices, is about one-half the value of the cloth it makes. The value of the wool, then, to make fifty millions of dollars worth of cloths, will be twenty-five millions of dollars. The wool produced in the country, according to the data and principles of calculation I have before assumed, will stand as follows:

In 1825, the number of sheep above-given,	13,809,678
Add 70 per cent. upon this number for the increase up to the present time, as obtained from the testimony as to Dutchess county, New York,	9,666,774
And the whole number of sheep will now be,	23,476,452

Multiply this whole number of sheep by two and one-half, the pounds of wool which each sheep, as appears by the testimony, will yield annually, and the whole quantity of wool grown in the United States, at the present time, will be 58,691,180 pounds.

I admit, sir, that all calculations of this kind are uncertain, and subject to considerable errors; but when it is remembered that this is made without any allowance for the sheep raised in the States south and west of those before named, of which there are known to be considerable numbers, and when it is proved by the testimony that many of the farmers have now on hand and unsold the shearings of from one to four years, I cannot doubt that this calculation is sufficiently small, and that the annual growth of wool in the United States, and the surplus now in the country unsold, must swell the value of the domestic wool at least to reach the present consumption.

As corroborating this estimate, I ask leave, sir, to refer to one of the memorials upon this subject, which has been printed and laid upon our tables since this bill was reported to the House. This memorial comes from a county of my own State, (Otsego,) second to few, and perhaps to none in it, in the extent and impor-

tance of its agricultural and manufacturing pursuits; and its language is as follows:

"The present number of sheep in the United States cannot be less than 20,000,000, and a steady market for wool would ensure their being double in number in three years. There is at this moment on hand, awaiting a favorable market, at least 20,000,000 lbs.; which, being added to the products of 20,000,000 sheep, we shall have, on the first of June next, 70,000,000 lbs.; which will be more than a supply of the raw material."

This, Mr. Chairman, strongly confirms me in the correctness of my own estimates; and if either be substantially correct in its results, the country does produce wool enough for the cloth she makes; and if enough for present demand is produced, no one can doubt the ability to extend the growing of wool even more rapidly than the manufactories can be increased by the present capital seeking that investment.

But, notwithstanding these evidences that the United States do produce a full supply of domestic wool, large quantities of foreign wool are annually imported; and one evidence that those importations do conflict with the domestic wool, is furnished in the fact, that very little or no coarse common domestic wool is purchased by the factories on the seaboard, where the coarse imported wools are readily obtained. The evidence of the importations is furnished in the Executive reports of the importations into the United States for the several years, by reference to which it will be seen that the value of these importations of wool, from 1822 to this time, have varied from about \$350,000 to about \$550,000 annually.

This wool must conflict with the wool of the country, if it be true that the country produces a supply; and it must affect the price far beyond its proportionable value, inasmuch as a surplus in the market, however small, sinks the price of the whole commodity. This wool also conflicts with the domestic, by supplying the very same market which the domestic wool ought to supply. This must be true, unless there are qualities imported answering a different purpose from that to which any domestic wool can be applied. But, sir, as I have before said, the manufactories upon the seaboard use none of the coarse domestic wools of the country; while those in the interior do use these coarse wools for the same purposes for which the others use the imported coarse wools. For proof of this, I refer to the testimony again.

[Here Mr. W. again made large quotations from the evidence taken before the Committee on Manufactures.]

I am aware, Mr. Chairman, that this reference to the testimony is tedious and irksome to the committee; but, sir, I cannot discharge what I believe to be my duty, without making it. I wish to examine the bill reported by the committee, and the amendment offered by the honorable chairman, (Mr. MALLARY,) with express reference to it, and to the facts elicited by it. And taking the references I have just made,

MARCH, 1828.]

Tariff Bill—Wool and Woollens.

[H. OF R.]

I ask where is the evidence of the want of foreign coarse wool? How many of the factories spoken of by these witnesses purchase any of the coarse domestic wools? Mr. Dexter and Mr. Dickinson are in the interior, and they use entirely domestic wools of all qualities. Nearly all the witnesses are employed in making fine cloths, either broadcloths or cassimeres, and of the same descriptions. Nearly all use the fine domestic wools, but most of them use the foreign coarse wools for listings, headings, and the like; a use for which the domestic coarse wools will answer an equally valuable purpose, as is shown by the fact, that the factories in the interior do make that use of it. But some of the witnesses, differently situated, swear expressly that they do not purchase it, and others, that they do not know its market price, which is equally evidence that it is not used in their factories. Others testify expressly to the use of the foreign coarse wools instead of the domestic.

It has been said, that for the manufacture of carpets, domestic wool cannot be used; that the price will be so high as to render it impossible to make the fabric at a reasonable value. From an examination of the testimony, does it appear that the foreign imported coarse wools are materially lower in price than the domestic? Will it not be found that domestic wools will be obtained in the course of manufacture as cheap as the foreign wools here mentioned? I believe, sir, I shall be able to show that they may be so obtained, that they must be fit for carpeting, and that their prices will not be higher than the average prices of the foreign wools.

Another and principal reason which induced me, and which I think influenced the majority of the committee to believe it necessary to change and increase the duty upon the coarse imported wools, is the confirmed opinion that many of these importations are made in evasion of the spirit of the existing laws, and that, by this means, qualities of wool are actually imported, invoiced at ten cents per pound, which conflict with wools of an entirely superior quality.

[For the evidence upon which this opinion is founded, Mr. W. again referred to the printed testimony.]

Here we have the evidence of the witness, that the largest quantities of the wool imported are of these coarse qualities, and invoiced at and below ten cents per pound. Of the samples of wool here spoken of, and which were frankly and generously prepared for the purpose, and exhibited to the committee by the Hon. Mr. Tuffe, I confess, Mr. Chairman, no judgment can be formed except from actual inspection and examination. I have examined them. They have been and I believe now are in the room of the Committee on Manufactures, where I hope many others have, or will examine them. I may be entirely mistaken in the judgment I have formed, and I certainly am not acquainted, to any considerable extent,

Vol. X.—5

with the different qualities of wools; but I am perfectly satisfied for myself, that at least two of these samples of wool are fully equal for all purposes of use, to much of the native wool of the country. Some of them have evidently not been cleansed at all; but, upon being cleansed and assorted, I cannot doubt that a large share of one of these samples of wool would be found fit to go into the manufacture of middling quality cloths. This, then, compels me to conclude that wools of these qualities, at least, must conflict with the coarse wools grown in this country. I may have misjudged as to the quality of these samples of wool; but, under my present impressions, the conclusion is irresistible.

But, sir, the difference in quality of the foreign wool introduced into the country by this change, in the course of importation, is worthy of notice. The quantity of wool imported into this country in 1822 and 1823, I have before given, and I will repeat them and compare those qualities with the number of pounds imported in 1825, 1826, and 1827, supposing that costing more than 10 cents per pound to average 60 cents per pound, and that costing 10 cents and under per pound, to average 7 cents per pound. These averages will at least be proportionably correct, for the years to which they apply, and cannot, I presume, be considered far from correct in the comparison with former years, when it shall be seen that some of the coarse wool sells in our markets, after paying duty and charges, as low as 6 cents, and that very little of the fine sells at a less price than 60 cents per pound.

But the honorable chairman (Mr. MALLARY) alleges that most of the domestic wool is of finer quality than the native wool of the country; that the present flocks of sheep are mostly of mixed or full bloods, and that little of the coarse wool is raised. He, sir, is a practical wool grower, and should be better acquainted with these facts than myself; and I am free to admit that it must be the interest of the wool-grower to make his flock as good as he can; to improve the quality of his wool until it reaches the finest point. But is this the state of the flocks at present in this country? So far as my knowledge extends, it is not. The flocks are not now Merino or Saxony. At least, sir, they are not in the district which I represent. Sir, the great body of the farmers of my district are men of small estates. The capital required to purchase flocks of these sheep, they do not—they cannot possess. The only means they have to attain them is by ingrafting them upon their present common stock; by crossing them with the breeds of common sheep, and improving the quality of their wool in that manner. These are the reasons which have operated upon my mind to induce me to wish to extend strong encouragement to the common flocks and common wool. But, sir, destroy the flocks of common sheep, and what will be the consequence? One of the witnesses has an-

answered the question: "those who have small flocks will not keep them;" the business of wool-growing must go into the hands of the capitalist. Protect only the Merino, and other fine wools, and the moderate farmer will be excluded from the benefit. Extend your protection to the ordinary farmers of the country; let them be thoroughly protected, and your flocks will become again flourishing and numerous; they will be improved in kind and quality as well as in numbers.

But it has been said the demand for these coarse wools cannot be supplied by the native wools of the country. Is this so? To answer this question I only ask a general reference again to the testimony. The foreign coarse wools now sell in our markets at from 10 to 16 cents per pound, generally, though some of it sells as low as 6 cents per pound. This is established by the testimony of Mr. Tufts, to which I have before referred, presenting samples of imported wool, now selling in the Boston market at from 6 to 14 cents per pound, and again saying, "the largest quantity imported sells from 10 to 16 cents per pound in Boston;" by the testimony of Mr. Schenck, saying, "the average cost of the Buenos Ayres wool was from 8 to 12 cents per pound, according to my best recollection;" and by the testimony of Mr. Brown, saying, "coarse and fine wools are imported principally. The coarse wools are worth from 10 to 15 cents."

I have already examined the testimony with reference to the demand for this native wool; and the result has been found to be, that very few of the factories spoken of by the witnesses use it at all, and the others use but a very small share of it. Little demand, therefore, exists for it in our markets, although the foreign coarse wools sell readily. The only reason assigned for this is, that the coarse domestic wools bear so high a price as not to warrant their purchase by the manufacturer. If this objection has not been already obviated by showing the relative prices of these coarse wools, and the different conditions, as to cleanliness, in which they are found in the market, there is still another consideration, which, to my mind, fully answers the difficulty. These domestic wools are to be assorted for manufacture; and what then will be the relative quantity and value of the several parcels or qualities thus produced?

What remedy, then, does the amendment, proposed by the honorable chairman, provide against the importation of these coarse wools? It proposes to alter the valuation at which they shall be admitted from 10 to 8 cents. Beyond that it proposes no remedy. At and under 8 cents per pound they are still to be admitted at the nominal duty of 15 per cent. ad valorem. Let me ask, Mr. Chairman, if this proposition of the honorable chairman does not fall under the condemnation of his own argument in relation to another branch of this subject? We have been told by him, and we have been told by all the witnesses, that the present manner of

levying the duty upon woollen goods is defective; that an ad valorem duty upon these goods can never furnish adequate protection; that the difficulty of correctly distinguishing the true quality, and consequently the true value of cloths, is insurmountable; that false invoices are and will be made; that the qualities of goods will be disguised, and, that, under such a law, they will not pay their just rates of duty. This reasoning, sir, had a convincing effect upon my mind. It had upon the minds of the committee, as the bill they have reported will show. But if the doctrine is true as to woollens, is it not equally true as to wool? May not the quality of the one be as easily ascertained as that of the other? Will the honorable chairman pretend that the appraiser can distinguish the difference in quality between a pound of wool, the true cost of which, in a foreign market, has been or should be, 8 or 10 cents, so as to determine whether it should or should not be admitted under the nominal duty? Will he pretend that two cents in the foreign value of a pound of wool, furnish a more obvious distinction in the quality of the wool, than usually exists between pieces of cloth of different qualities? He will probably answer me that any frauds which may be practised under this provision are too trifling to be the subjects of serious apprehension. In this opinion I would readily agree with him, if they related to the importation of an article which the country does not produce. But I believe the fact to be otherwise; and if it be so, I am bound to suppose this difference of valuation will be of no utility. If the reasoning in relation to the frauds be sound as to the cloths, it must also be sound as to the wool, and the alteration requisite to guard against them is not produced by the change of valuation from 10 to 8 cents. No remedy can be effected but a specific duty upon each pound of this wool. Any reasonable increase of the ad valorem duty upon an article of so small a value cannot operate as a sufficient guard, without being entirely disproportionate upon the finer wools: and, even laying aside that difficulty, the impossibility of distinguishing accurately the qualities of these wools, in the state they now are and will be imported, is not obviated by any ad valorem increase, and such a provision in relation to them would be left subject to all the objections made against it when applied to cloths. I have endeavored to show that these frauds do, to some extent, now exist. Indeed, the honorable chairman admit their existence in some degree.

But, sir, I have done with the subject of the bill and amendment, so far as they relate to the raw wool, and now pass to the woollen cloths, and to a comparison of the bill reported by the committee with the present law, and also with the proposed amendment, as they relate to the duty upon the manufactured fabrics. And here, Mr. Chairman, it becomes my duty to remark, that, at an early period of the labors

MARCH, 1828.]

Tariff Bill—Wool and Woollens.

[H. OF R.]

of the Committee on Manufactures, I found I could not act with certainty upon this subject, with the information then possessed. I could not obtain the means of determining what protection the manufactures required, and therefore it was that I wished for an examination of witnesses before the committee. The power was granted by the House, and the committee have examined the manufacturers themselves. It shall now be my object to ascertain what facts have been established, by the testimony so taken, which will enable us to arrive, with some degree of certainty, at the just measure of this protection. And here, sir, I can only promise the committee that my reference to the evidence shall not be as tedious as those I have formerly made. The testimony upon the points to which I shall now ask the attention of the committee, is much more precise and satisfactory, than upon many other positions before taken.

I then assume, as a fact well settled by the evidence, that the cost of the wool, and the cost of manufacturing into cloth ready for the market, as a general rule in this country, at the present prices of wool, are about equal; or, in other words, that the cost of the raw wool in the United States, is about one-half the cost of the cloth it makes.

[Here Mr. W. again made extracts from the printed testimony taken before the committee.]

This, Mr. Chairman, closes the testimony as to this proposition, and upon which point every witness, whose knowledge of practical manufacturing has enabled him to answer the question, has given the same answer very nearly. I therefore consider the proposition as fully and incontrovertibly established by the proof. It will be found, however, that while this position is true as a general rule, there will be variations in it according to the different qualities of the cloth made. The cost of manufacturing the finer qualities, will be less than the cost of the wool, and the cost of the manufacturing the coarse qualities, will be greater than the cost of the wool, while at some of the intermediate qualities, an almost exact equality will exist.

In lots of wool costing not more than 75 cents per pound, these variations will balance each other and form an average equality between the cost of the wool and the cost of manufacturing, in any given quantity of wool.

That the next principle which I consider as established by the testimony is, that any given parcel of wool can be manufactured into cloth as cheap in the United States as it can in England, or, in other words, that the difference between the cost of woollen cloths in the United States and in England, is the difference in the cost of wool, the expense of manufacturing being the same in both countries.

For the proof of this position, Mr. W. referred to the testimony of the following witnesses:—Messrs. Shepherd, Marland, Young, Wolcott, Olapp, Dupont, and Peirce.

Here, again, Mr. Chairman, there is an entire

agreement among all the witnesses, who are able to answer the interrogatory of the committee, in relation to the position I have taken, and their answers all go to establish its correctness.

I next assume it to be proved by the evidence taken, that the cost of wool in this country is greater than the cost of the same wool in England by from 50 to 80 per cent. upon the English cost; or, in other words, wool of the same quality costs from one-third to four-fifths more in the United States than it does in England.

Here, again, sir, I must tax the committee with a reference to the swearing of the witnesses, and I can only cheer them with the assurance that it is the last which I propose to make.

The following question, in substance, was put to most, if not all of the witnesses examined before the committee upon the subject of wool and woollens, and I will give the answers of such of them as were able to give definite answers to it.

Question.—Do you know the difference in the price of wool of the same quality in the British and in the American markets?

[Answered by eight witnesses.]

These answers give as the extremes of difference in the price of wool in the two countries, 50 and 80 per cent. upon the English price; and one witness says, "this (50 per cent.) is the lowest price at which it can be sold to cover all expenses; thus plainly giving us to understand, that this will cover all expenses, and leaving the equally plain inference that any further advance is the importer's profit, whatever that advance may be. In corroboration of this idea, also, the witness, Mr. Poor, is asked—"Is importing wool a profitable business, and do the importers find ready sales for it?" And his answer is: "It has been a profitable business for some time past, say at least for 1827; but it is attended with uncertainty, like other mercantile pursuits. During the past year the sales have been very ready: we have sold, as auctioneers, about 360,000 lbs. of foreign wool, and about 108,000 lbs. of domestic wool." Yet, sir, as the witnesses do not exactly agree as to this difference in the prices of wool between England and this country, and as I wish to put this subject upon at least a safe footing, for the American manufacturer, I have assumed the medium between these two extremes of 50 and 80 per cent. to be the correct difference between the price of wool in the two countries, and shall make my estimates upon a supposed difference in the cost of wool in favor of England, of 65 per cent., which is that medium.

What, then, are the present and the proposed duties? The present duties upon these goods, as will be seen by the amount of importations just given, is 25 and 33½ per cent. *ad valorem*. The bill reported proposes a change in the manner of levying the duties from an *ad valorem* to a specific form, by adopting the mini-



minimum principle, as it is called, and thus recommends an increase of the present rates of duty in two ways: 1st, by a direct increase of the *ad valorem* duty; and 2d, by the regulation of the minimums; so that by the provisions of the bill a square yard of cloth, costing in a foreign market 20 cents, and one costing 50 cents, will pay the same duty; a square yard of cloth costing 51 cents, and one costing 100 cents, will pay the same duty; a square yard of cloth costing 101 cents, and one costing 250 cents, will pay the same duty; and a square yard of cloth costing 251 cents, and one costing 400 cents, will pay the same duty; and all intermediate values in each case will pay the same duty with the highest extreme of the minimum. All values above 4 dollars the square yard, are, by the bill, to pay an *ad valorem* duty of 45 per cent. The amendment of the honorable Chairman, (Mr. MALLARY,) proposes to make a square yard of cloth, costing in a foreign market 20 cents, and one costing 50 cents, pay the same duty; a square yard of cloth costing 51 cents, and one costing 250 cents, pay the same duty; a square yard of cloth costing 250 cents, and one costing 400 cents, pay the same duty, and a square yard of cloth costing 401 cents, and one costing 600 cents, pay the same duty; and fixes upon the lower priced cloths a somewhat higher rate of duty than that proposed by the bill, but a rate of duty not so high upon the fine cloths, it proposing 40, and the bill reported by the committee 45 per cent.

Another tabular calculation will show the rates per cent. of the duties proposed by the bill, and also by the amendment of the honorable Chairman, by which the direct increase of the rates proposed, and also the increase produced by the adoption of the minimum principle, may be seen and compared. That this comparison may be as perfect as practicable, I have made the calculation at the extremes, and at the mean of each minimum, and have also given the medium increase of the present rates of duty upon each minimum, both of the bill and of the amendment. They are as follows:

[Here follows the table, the results of which are afterwards summed up.]

Thus it will be found that the rates of duty proposed by the committee, range from 82 to 99 per cent., omitting fractions entirely, which are omitted in the table, and that the rates proposed by the amendment vary from 44 to 215 per cent. In one single instance the duty proposed by the committee diminishes the present duty. That instance is at the very highest extreme of the first, or 50 cent minimum. The now rate of duty upon a square yard of cloth costing 50 cents in a foreign market, as will be seen by the table, is 88½ per cent., while the rate proposed by the bill at that point, is but 82 per cent.; or, to be better understood, as I intend to argue this question with perfect candor, the duty proposed by the committee upon

a yard of cloth invoiced at fifty cents, or at any price under that sum, is 16 cents; while the present duty upon a yard of cloth invoiced exactly at 50 cents, would be 18½ cents, making a difference in favor of the present duty, confined strictly to this point, as to cost, of 2½ cents. This, upon its face and unexplained, would seem to be wrong, and contrary to the principles which have governed the committee. I will, therefore, ask the patience of the committee for one moment, while I examine this minimum. It is conceded on all hands that the cloths falling within this minimum, must be either very coarse fulled cloths, or the lighter fabrics, as baizes, flannels, &c. Now the first difficulty presenting itself in the formation of this bill, was to graduate a duty which should afford protection to the manufacturer upon these coarse fulled cloths, and at the same time should not be entirely unreasonable upon the light fabrics just mentioned. The present law had made a distinction in the duty below this point, of 50 cents, and had imposed a duty of only 25 per cent. upon all cloths costing 38½ cents the square yard, while upon all costing over that sum, a duty of 88½ per cent. was imposed. To this distinction flannels and baizes were made an exception, and the distinction was declaredly introduced to favor a description of the coarse fulled cloths, extensively used, and forming the heaviest item of woollens consumed in one section of this Union. I refer to the cloths commonly called negro cloths. These were supposed mostly to come under the distinction of cloths costing less than 38½ cents the square yard, and therefore to pay a duty of 25 per cent. If this was a correct supposition of the former law, I ask, Mr. Chairman, what duty will these cloths pay by the proposed bill? A square yard of cloth costing 38½ cents, by the present law pays a duty of 9 16-100 cents, say 9 2-10 cents. By the bill reported by the committee, the same yard of cloth will pay a duty of 16 cents, making an increase of the duty beyond what is now imposed, of 6 8-10 upon every square yard. Now, sir, suppose no single yard of these cloths comes invoiced at a less price than 38½ cents, I ask, is not this a sufficient increase of the duty? It is 48 instead of 25 per cent. But we have seen by the calculation and table I have just given, that the average increase of duty upon this minimum, even supposing 20 cents to be its lowest extreme, by the effect of the minimum principle, is 12 per cent. beyond the duty now imposed; and this is true, while at the extreme point of 50 cents, the present duty is very triflingly reduced. This is the only minimum proposed in the bill where the present rate of duty is not increased even at the highest extreme of the graduated value. Thus, all cloths costing more than fifty cents, and not more than one dollar, are to pay the same duty, a duty of 40 cents upon every square yard. The present duty upon a yard of cloth costing 1 dollar, is 86 2-3 cents; thus

MARCH, 1838.]

Tariff Bill—Wool and Woollens.

[H. OF R.]

leaving an increase at the very extreme of this minimum, of the difference between 86 2-3 and 40 cents, or 8½ on the yard of cloth, while at the lowest extreme of this minimum, the difference between the present and the proposed duty is, a fraction more than 21 cents upon each yard of cloth, in favor of the latter. The average increase upon cloths falling within this minimum, is, as we have just seen, 20 per cent. beyond the present rate of duty.

I will not trouble the committee with a further recapitulation of this table, than to remark, that an examination of the calculation will show that the medium increase of duty upon cloths falling within the third minimum, is 23 per cent. beyond the present duty, and within the fourth, a fraction more than 20 per cent. increase; while the extremes will be found equally to increase the present rates of duty upon the same cloths. After this point, I presume the bill will not be objected against by the friends of the amendment, as its proposed rates of duty are even higher than those proposed by the amendment. The medium increase beyond the present rate of duty, by the respective minimums, in the proposed amendment, will be found by this table to be, upon the first, 29 per cent.; upon the second, 40 per cent.; upon the third, 20 per cent.; and upon the fourth, 19 per cent., rejecting fractions, and the extremes of increase are from 10 to 182 per cent.

Thus, having seen what the present duty is, what the duties proposed by the bill and amendment are, and what increase beyond the present rate and amount, is proposed by each, it remains for me to examine whether the duties proposed by the bill, as reported by the committee, are sufficient to give to the manufacturer of woollen cloths that protection which he actually requires. And here let me ask, Mr. Chairman, what protection does the manufacturer really need? Have we the means of answering this inquiry? I think, sir, we have, and that, too, with considerable certainty. I have already shown, or attempted to show, that the cost of wool, and the cost of manufacturing it into cloth, at the present prices of wool in this country, are equal; that any given parcel of wool can be manufactured into cloth as cheap in the United States as it can in England; or, in other words, that the difference in the cost of woollen cloths in the two countries, is the difference in the cost of the wool of which they are made, the expense of manufacturing being the same in both; and that the cost of wool in the United States is greater than the cost of the same wool in England, by from 50 to 80 per cent. upon the English cost. These propositions I consider to be fully proved by the testimony to which I have referred; and taking them to be true, I think we arrive necessarily at the conclusion, that the protection which the manufacturer of woollen goods in this country requires, is equal to the difference between the cost of the wool he uses in

England and in this country. The cost of his fabric is the cost of the wool and the cost of the manufacturing it into the fabric; and, as it is established that the English and the American manufacturer can do the manufacturing at the same expense, the difference at which each can furnish the fabric at cost, must be the difference which each has to pay for the wool of which it is made. But it is also established that, as a general rule, the cost of the wool is one-half of the cost of the fabric when prepared for the market, and that the cost of wool in this country is greater than the cost of the same, or an equal quality of wool in England, by from 50 to 80, the medium 65 per cent. upon the English cost. Therefore, the protection required by our manufacturers, is equal to 65 per cent. upon the cost in England of the wool they use.

If, then, the cost of the wool, and the cost of manufacturing it in this country, are equal; if the cost of manufacturing is as cheap here as it is in England; if the cost of wool in this country is greater than it is in England by 65 per cent., as an average, upon the English cost; and if I have shown that the bill, as reported by the Committee on Manufactures, covers this difference in the price of wool, and even goes beyond it, I have shown enough for my purpose.

The American manufacturer has, by the bill as reported, all the protection which he swears that he needs.

Here I should remark, that these tables are cast upon the assumption that 65 per cent. is the true difference between the cost of wool in England and in the United States, although I have before noticed that there are strong reasons to believe that this per centage is greater than the difference which, in fact, exists, or that a less advance (say 50 per cent.) would pay the present duty, costs, and charges, and enable the importer to bring in foreign wool. My calculations have also been made upon the present prices of wool in this country, and the only possible manner of shaking them, or disproving their correctness, is by the assumption that the duty proposed by the bill, upon raw wool, is to enhance the price of that article, to the extent of the duty. The soundness of this argument, as well as the propriety of its use, by the friends of the protecting system, I shall, by and by, have occasion to notice. But as a partial answer to it, supposing that the proposed duty upon wool may have some effect to enhance the price of it, I present the excess of duty over the protection required at the present prices of wool in this country. At all points of each minimum, that excess is considerable, but at the highest extreme of the first minimum, 50 cents, the only point in the whole bill where the present duty upon cloths is not increased, that excess amounts to more than 7 per cent. upon the value of the cloth, or 14 per cent. upon the value of the wool. At the highest extreme of the next minimum, \$1 00,

the excess is 15 per cent. upon the cloth, or 80 per cent. upon the wool, and this again is the least excess to be found in the bill, with the exception of that at 50 cents. Will it then be contended, by the friends of protection, that wool is to rise in price, by the operation of protecting laws, beyond either of these rates of increase? If not, then the duties proposed by the bill will still be a sufficient protection to the manufacturer. It now then remains for me to answer a very few of the arguments used by the honorable chairman, (Mr. MALLARY,) and as I suppose, intended to apply to the amendment he has offered, although he did not offer the amendment until after he closed his remarks.

As to the frauds alleged to be committed in the importation of those coarse wools, the honorable chairman has given all the answer which he could have given; that, if these wools are imported in a foul state to disguise their quality, they will necessarily lose in cleansing, and that loss must operate to increase the duty upon the cleansed wool. This is true, practically, to a certain extent, but not to the extent which the gentleman seems to suppose. But, sir, suppose it to have been true up to this time, what effect has it upon the subject now before the committee? We are now to reason, not upon the existing law, but upon the effect of the law which we are about to pass. Let us then see what will be the inducements to these frauds, if the amendment proposed by the honorable chairman (Mr. MALLARY) is adopted. One pound of wool, worth in a foreign market 16 cents, will, by that amendment, pay 20 cents duty. Mix with that pound of wool 1 pound of dirt, making two pounds in weight, and worth 8 cents per pound, and what duty will it then pay? The two pounds will still be worth only 16 cents, and will by that same amendment only be charged with a duty of 15 per cent. *ad valorem*, equal upon the 2 pounds of wool and dirt, to 2 64-100 cents. Here, then, you will have the same pound of wool imported, and consequently conflicting with a pound of equal quality of our own wool, while, by this simple fraud, 17 86-100 cents are saved upon the duty it should pay—an amount greater than the cost of the pound of wool itself in the foreign market, and the same wool would pay a duty of 2 64-100, instead of 20 cents. Does, then, the bill as reported by the committee, furnish an effectual check to these frauds? That bill proposes a duty of 7 cents, specifically, upon every pound of wool imported, and a further duty upon all wool of 40 per cent. *ad valorem*. The duty at that rate, upon one pound of wool worth 16 cents in the foreign market, would be about 14 cents; and any attempt to disguise its quality, by means which should add to its weight, would only increase the duty by 7 cents upon every pound weight added. This view of the case must certainly convince even the honorable chairman himself, that this pro-

vision of the bill is to be preferred, and that his amendment only proclaims a bounty upon frauds in the importation of coarse wools.

MONDAY, March 24.

Case of R. W. Meade.

The House proceeded to the orders of the day, which was the unfinished business of Saturday, consisting of the bill and amendment for the relief of R. W. Meade.

The question recurring on ordering the bill to its third reading,

Mr. WALES withdrew his call for the previous question.

Mr. POLK then took the floor in opposition to the bill, and was replied to, at considerable length, by Mr. EVERETT in its favor.

Mr. RANDOLPH then made a series of remarks on the unfitness of the House to be a tribunal for the decision of private claims, on the advanced stage of the session, the necessity of coming to some conclusion as to the tariff, and concluded by moving to lay the bill upon the table.

The motion was negatived—ayes 61, noes 90.

Mr. BUCHANAN said: I voted against the motion of the gentleman from Virginia, (Mr. RANDOLPH,) to lay this bill upon the table; because I believed, that in a few minutes its fate would have been finally decided, by a direct vote of the House, upon its engrossment.

I shall not suffer myself to be drawn into the debate, upon the general questions involved in this bill, neither shall I express any opinion in regard to the validity of Mr. Meade's claim. The suggestion made by the gentleman from Virginia (Mr. ACHER) has no application to me; because I have read and carefully examined all the documents, connected with this claim, which have been published; and still I am not informed as to its nature. I ought not therefore to have formed any opinion upon the subject.

It has been admitted by the chairman of the committee who reported this bill, (Mr. EVERETT,) that the royal certificate ought to have no effect upon our decision; and that it must be sustained by other documents, before this claim can be allowed. It is certain, that upon this certificate alone, the United States ought not to be made answerable to Mr. Meade. Why then are not the documents necessary to sustain this claim, now produced? Where are they? In the possession of Mr. Meade? I believe not. We are then about to provide a tribunal for the examination of documents which may be in Spain, or may be, the Lord knows where. We are asked to call into existence a Board of Commissioners, but whether they shall ever act or not, will depend upon the contingency, whether Mr. Meade will ever be able to procure his vouchers. Let these vouchers be first procured; let Mr. Meade present them to the House, and let them be submitted to one

MARCH, 1823.]

Case of R. W. Meade.

[H. OF R.]

of our committees, ; and if they should be too voluminous for its examination, then, and not till then, shall I vote to establish a Board. It is the first time I have ever heard of a claim sent by Congress to be audited, whilst the vouchers upon which it rested were not in the possession, and for any thing we know, might never be in the power of the claimant. Against this claimant I entertain no prejudice ; on the contrary, my feelings are all of an opposite character ; but I am not willing to establish a special commission to investigate his claim, before he has submitted to us any vouchers upon which it can be sustained.

[Mr. EVERETT here explained. He said he was informed that Mr. Meade had a large mass of documents in his possession ready to submit.]

Mr. B. proceeded. Sir, said he, this makes the case stronger against him, than I had ever supposed. If he had the documents upon which his claim is founded, or any part of them in his possession, why did he not submit them to the committee? And why did that committee rest their report upon the royal certificate alone, which is now admitted to be insufficient to establish the claim?

It has been said, that the passage of this bill, in its present form, will not commit the House upon this claim. I am far from being of that opinion. The bill proposes to appoint three commissioners, to examine and liquidate this claim, and report such items of it as they think ought to be allowed, together with the evidence. And am I to be told, that if we shall establish a tribunal to examine and to decide this question, that after they shall have reported their decision to this House, we shall be as free to act, as if there had been no such proceedings under our authority? Will this be the case, after we shall have asked and obtained the opinions of the Attorney-General and two of the Auditors of the Treasury? It is true, we may reverse their decision if we think proper ; but it is equally certain, that the judgment of a judicial tribunal established by our own authority, must necessarily have an influence upon our decision. It will be *prima facie* evidence of the justice of the claim, and will relieve the claimant from the burthen of proof, and cast it upon the United States.

But, sir, I do not like to send a claim of this magnitude to be decided by persons whom I do not know. The President may, in his discretion, appoint any two of the five Auditors of the Treasury. These Auditors are all equal in the eye of the law ; but yet, there are some of them upon whose decision I should rely with much more confidence than upon that of others. I do not suppose that the Attorney-General would leave the duties of his station to audit this claim. The business will, therefore, be chiefly transacted by the two Auditors who may be appointed.

I cannot perceive what the friends of the claim expect from the establishment of this tri-

bunal, unless they suppose that its decision will have an influence upon our judgment. In what manner can it expedite the final determination of the claim? The bill does not propose that it shall be paid, until after Congress, at their next session, shall have acted upon the report of the Board. Why then should we not wait until the next session, when the vouchers, if they exist, can be produced to us ; and, if then, the Committee on Foreign Relations shall not be able to examine and decide upon them, we can refer them to a Board of Commissioners. It is not even pretended that the vouchers are all here yet. We have seen none of them, and in the course of this long debate, I have never heard until this day, that any of them were in the possession of Mr. Meade.

Mr. S. WOOD next rose, and said, that he wished briefly to assign the reasons of the vote he should give without entering at large into the subject.

Sir, said he, every Government is bound by the principles of the social contract, to protect its citizens in the lawful exercise of their rights, and those whose property has been taken from them by violence on the ocean or in the ports and harbors of neutral and friendly powers, are entitled to call on Government to aid them in seeking redress.

Yet, even in case Government should be unable to obtain redress by peaceable means, it is not bound to go to war to avenge or redress individual injuries, if inconsistent with the general welfare.

The case is very different with regard to debts, or demands arising from contracts with foreign Governments, by citizens resident there.

A citizen who takes up his residence in a foreign country, and entrusts his property with the citizens or subjects of that country, does it at his own risk ; and whatever difficulties he may encounter in recovering his debts, he has no reason to complain, while the tribunals of justice are open to him in common with others. If he becomes a creditor of the Government, he relies upon the ability and good faith of the Government to discharge its engagements, and must share the fate of other public creditors. Nothing less than an open and flagrant denial of right can entitle him to claim the interposition of his own Government in the prosecution of his demand. A different doctrine would make the Government the insurer of every mercantile adventurer, who should choose to become a public creditor, would subject the Government to unpleasant altercation with other Governments in relation to their private contracts with individuals, and would lead to consequences that would be intolerable.

There is no pretence that this was the case with regard to the petitioner. The embarrassed state of the Spanish finances rendered the debts of that Government in a great measure desperate, and, at his pressing solicitation, the claims of the common creditors of Spain

were included in the treaty, with the claims of those for whom the Government was bound to provide.

The insertion of these claims in the treaty, was, therefore, purely gratuitous; and it was a favor to the applicant to be placed on an equality with those whose property had been taken from them by force, and had a right to call on the Government for redress. His claim was admitted, subject to the same restrictions, as to the mode of adjustment and liquidation, as those claims were; and, if Government has extended the same justice to him as to others, it has discharged its obligations to him.

The stipulations in the treaty constituted the measure of its obligation. The United States, in consideration of the cession made by Spain, agreed to appropriate five millions of dollars towards the payment of such claims against Spain as should be allowed under the treaty; to institute a Board of Commissioners, to continue in commission three years, to ascertain the amount and validity of all the claims that should be brought before them, and to demand of Spain all such documents as were in her possession, which should be intimated by the commissioners to be necessary to the investigation of any claims submitted to them.

Have not the United States, in good faith, discharged all the obligations imposed on them by the treaty? Did not the Government institute the Board of Commissioners, and make the demand on Spain when required? Did not the Board continue in commission three years? Did they not adjust all the claims which were sustained before them? And, have not the five millions been distributed among those whose claims were allowed, in conformity with the stipulations of the treaty? It cannot be questioned.

It has been said, that the petitioner had not time to procure his documents to sustain his claim before the commissioners, after he had obtained the order for their production. Why was not the order produced in season?

The commission was organized in June, 1821, and continued until June, 1824. The petitioner presented his claim in January, 1822, but did not apply for an order on Spain, for his documents, until April, 1823, when the time proved insufficient for the purpose. Why were nearly two years suffered to elapse, before the course provided by the treaty for procuring his documents was adopted? Are the United States in fault for the omission? The petitioner had the control of his own claim, and had ample time to procure his documents; and it would be unjust to charge the Government with the consequences of his own neglect. It was not in the power of the Government to act until he furnished them with a schedule of the papers required, and an order of the commissioners for their production; and there is no complaint of the want of promptness in acting the moment these were exhibited.

It is a sufficient vindication of the good faith

with which the Government has fulfilled the stipulations of the treaty with Spain, that all the claimants had it in their power to obtain their proportion of the fund which was provided for their indemnity, if they had exercised the requisite diligence to substantiate their claims before the commissioners, according to the stipulations of the treaty by which it was pledged for that purpose. Those whose claims were adjusted, were entitled to the whole fund. It has been distributed among them, and there is nothing left for further distribution. The treaty made as ample provision for debts as well as claims against Spain, as the creditors or claimants had any right to ask, and neither justice nor policy requires that any further provision should be made. Sir, the passage of any bill on the subject would involve a recognition of some sort of liability to the petitioner, and cannot be sustained on any valid principles.

Besides, if you make provision for one, you must extend the gratuity to the whole, who are in the same situation. We are told that there are claims resting on the same grounds with that of the petitioner, to the amount of \$90,000 dollars. If you allow this claim the present session, what answer will you give those claimants when they apply to you at the next? Their claims will be warranted by this, and consistency will require that they should be treated in the same manner, and with more reason may the claimants for spoliation urge the full satisfaction of their claims.

If you open your Treasury to the petitioner, you cannot close it against demands of the same order, much less against those of a much higher character; and a determination to abide by the results of the treaty, or to provide full satisfaction for every claimant, ought to govern the vote on this bill.

Mr. MITCHELL, of Tennessee, called for the previous question.

The call was sustained by the House, and the question then recurring, "Shall the main question be now put?" it was decided in the affirmative.

The main question was then put as follows: "Shall this bill be engrossed, and read a third time?" which question was decided by—yeas 66, nays 105.

So the House refused to order the bill to be read the third time, thereby rejecting the bill.

TUESDAY, March 25.

#### *Disbursing and Accounting Officers.*

The debate on the resolution, heretofore offered by Mr. J. S. BARBOUR, was resumed.

Mr. BARBOUR said: Prior to Mr. Jefferson's Administration, the language of our appropriation acts was loose and general. He saw the omens of mischief that crowded around this practice, and in his first message advised this change. Specific appropriations to definite objects followed, and his model of economy

MARCH, 1823.]

*Disbursing and Accounting Officers.*

[H. OF R.]

and simplicity in administration, is happily illustrated, in this respect, by its strict coherence to the plain principles of the constitution. In process of time, these views gave way to a misguiding exigency, and the spirit of the constitution was subdued in the act of March 3d, 1809. The right to transfer appropriations defeats that guard over the public money which the constitution designed for its security, and gives into the hands of the President the key that unlocks, at his will, the national treasures. This was, no doubt, a temporary convenience, but it was fraught with serious error in its inception, and still more serious danger in the precedent. The present Vice President of the United States moved upon this floor in 1816, the following resolution:

*“Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing so much of an act entitled an act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments, passed 3d March, 1809, as authorizes the President of the United States to transfer appropriations.”*

Although powerfully resisted in debate, he succeeded in this effort to bring back the executive action to its constitutional limits. Had he no other claims to public gratitude but this single act of replacing the constitution upon its true and original basis, it would be of itself sufficient to give him a high and just rank among the benefactors of his country. The act of March 3d, 1817, was the fruit of his exertions. That of May, 1820, next followed. By this last act, the power of transfer, which is equivalent to the grant of absolute power over disbursement, was vested in the President, for the following specified objects:—“For the subsistence of the army; for forage; for the medical and hospital Department;” also in the Navy Department; “for provisions, for medicines and hospitable stores, for repairs of vessels, for clothing.” And this act concludes by prohibiting all other transfer of appropriation. As the gentleman has called in question the accuracy of my first estimate of the sums subject to the will of the President, I have revised it upon his own admitted basis of calculation. If I am in error, that error is incurable, for I have spared no diligence in the scrutiny by which I tested the correctness of the original estimate. Sir, I must repeat that the contingent expenses of the first year of Mr. Jefferson’s Administration, though open to some cavil, should be fairly set down at \$58,213 57 cents; but embracing both enumerated and unenumerated contingencies, will not exceed \$120,000—for the second year the amount was \$20,350—and for the third year was \$15,001 2 cents. Contrasted with these, the appropriations for the last year, that are under the dominion of the Executive, may be set down at two millions and fifty-six thousand one hundred and fifty-three dollars and forty-eight cents. We may, with propriety, add to this

sum, the appropriations for internal as well as external commerce—comprising the sums allotted for light-houses, buoys, piers, &c., &c., which touch the latter subject; and roads, canals, and surveys, as connected with the former. For in these disbursements, the power conferred is so general, and the application of money in the legislative act, so loose and undefined, as necessarily to confide the expenditure to the Executive judgment, as a supplement to the expressed will of the Legislature.

For these purposes there was last year expended eight hundred and fourteen thousand two hundred and four dollars and fifty-two cents; and which added to the above amount of two millions fifty-six thousand one hundred and fifty-three dollars and forty-eight cents, make a total of two millions, eight hundred and seventy thousand three hundred and fifty-eight dollars. I am thoroughly persuaded that it will in the aggregate, exceed, rather than fall short of this computation. I have brought with me to my seat the Treasury reports, and extracts carefully taken from the acts of Congress making appropriation.\* It will be to me a source of gratification, if the gentleman from New Hampshire, or any other member, will take these papers, (or copies of them,) and detect, by the severest scrutiny, any error of estimate or calculation. Mr. Speaker, is it not a theme for curious and anxious speculation, that whenever any allusion is here made to the expenses of Government, the friends of the Chief Magistrate rise up with their correlative estimates of the present and past Administrations? And yet, sir, this tremulous sensitiveness is by no means inexplicable. It is a fact, susceptible of the plainest demonstration, that the disbursements of public money, under like circumstances, and for the same objects of expenditure, by the present Administration, have exceeded all former example. And it is not upon untenable ground that I make up this opinion. Arithmetical calculations, resting upon responsible reports from the Treasury Department, carry my mind to this confident conclusion. Whatever causes may arise for diversity of opinion upon other topics of inquiry, none can here exist; for the estimate of dollars and cents, by the plain use of figures, cannot conduct us into error, without the certainty of immediate and palpable detection. In the view that I took of this subject, my atten-

\* Such tables as these present proper points for the pause and contemplation of statesmen: they show the progress of the federal expenditure, and furnish the data for instructive and useful comparison. They are the test of economy; and give to the word a practical, and a tangible meaning. The democracy of 1823 made it a charge of extravagance against Mr. Adams’ administration because the expenditures of the Government (independent of those fixed objects which have no relation to the *expenses* of the Government) amounted to about eleven millions per annum; and seemed to have some reason for the reproach, as the same expenditure under the preceding administration was only about eight millions per annum.

tion was fixed to the comparative estimate of appropriation and expenditure for the three years of this Administration, compared with that of the three years immediately preceding it; and it presents the following results:

*Current Expenditures, exclusive of Military Pensions and the payments to the Public Debt:*

1822,	-	-	\$7,879,444	11
1823,	-	-	8,005,566	07
1824,	-	-	8,939,449	56

Total, - - - \$24,822,459 74

*Current Expenditures, exclusive of Military Pensions and the payments to the Public Debt:*

1825,	-	-	\$10,249,529	13
1826,	-	-	11,505,722	44
1827,	-	-	11,752,515	61

Total, - - - \$33,507,767 13

Deduct three years amount of preceding Administration, - 24,822,459 74

Showing an increase of disbursement in the present Administration, of - - - \$8,685,307 44

I have omitted any notice of the charges upon the Treasury, for the public debt and the military pensions, because the payments to these objects, cannot by any dialectic ingenuity, be made the theme of eulogy to any Administration. The extinguishing action of the sinking fund upon the public debt, cannot be set down to the credit of the Executive; it results from pre-existing law. The excess of accumulation in the surplus fund, by operation of the same law, disgorge itself into the sinking fund, and becomes in like manner sacred to the public engagement. The appropriations for military pensions I have also excluded, because this is a disbursement likewise resting upon definite and uncontrollable causes, and is in no instance to be effected by administrative prodigality or economy. This channel of expenditure has been gradually contracting, by the inflexible operation of the great law of nature, upon the aged survivors of the Revolutionary Army. I choose here to mention, that a slight difference may be made to appear in these calculations, if resort be had to the late report on the public debt. But this will present a stronger case, by five or six thousand dollars, against the present Administration. I have made my deductions from the table accompanying the report of the Committee of Ways and Means, and sent to that committee from the Treasury Department. I have taken that basis for calculation which presents the smallest discrepant amount of expenditure in the two periods embraced in the comparison. And here, too, Mr. Speaker, I entreat the gentleman from New Hampshire, (Mr. BARTLETT,) to take these estimates, with the materials from which they have been made up, and give them his closest examination.

They challenge and defy his scrutiny. The vaunted care and economy of this Administration, is opposed with the stubborn and melancholy fact, that eight millions six hundred and eighty-five thousand three hundred and seven dollars and forty-four cents have already been thriftlessly expended, instead of having been applied to the extinction of the public debt, since the present Chief Magistrate came into office. Sir, the evil does not stop here. It is said that we are enjoined by the constitutional duties which the distribution of power among the co-ordinate branches of Government impose on us, to grant supplies. And the fact is unquestionable, that the Executive estimates for the service of the current year, are at least equal, and in the main probably greater, than for that which has closed. Pushing ahead for further results, in the supposititious economy of this care-taking Administration, and judging of what is to be done by that which has been done, I am warranted in saying that this excess of expenditure, beyond its comparative proportion, will be increased to eleven millions five hundred and eighty thousand four hundred and ten dollars and twenty-five cents. Is this to be borne with in a temper of patient forbearance? Can it be successfully controverted by any varying computation? Can it be palliated by any further disclosures of a justifying and imperative necessity? I am firmly convinced that it cannot.

The Treasury report from which I have taken these expenditures, details for each and every year, the same items of disbursement, identically and successively extended. In the present condition of things, with a commerce suffering under exaction, and agriculture languishing into decay, have not our constituents (already burdened with excessive though indirect taxes) a right to hold to us the chiding language of Divine inspiration, and say,—“We have labored, and other men have entered into the fruits of our labors?”

FRIDAY, March 28.

*Tariff Bill.*

The House went into Committee of the Whole, Mr. P. P. BARBOUR in the chair, and resumed the consideration of the Tariff Bill.

The amendment offered to the bill by Mr. MALLARY, Chairman of the Committee of Manufactures, yesterday, was read.

The amendment to the above, offered by Mr. BUCHANAN, of Pennsylvania, was then also read.

Mr. BUCHANAN said: I presume there will be no difficulty in understanding the effect of the amendment which I have offered. It proposes merely to strike out the minimums from the amendment offered by the gentleman from Vermont, (Mr. MALLARY.) Should my motion prevail, then the amendment of that gentleman will contain a progressive increase of the present ad valorem duty of 33½ per cent. upon the

MARCH, 1833.]

Tariff Bill.

[H. OF R.]

importation of woollen goods, until it shall reach 50 per cent. During the first year it will be 40 per cent., the second 45 per cent., and the third year it will attain the limit of 50 per cent. The increase of ad valorem duty will then amount to 16½ per cent. The addition to the present duty upon coarse woollen cloths, costing in a foreign country not exceeding 33½ cents per square yard, will be much greater than what I have stated. It may be proper, should my amendment prevail, to make a discrimination in their favor, similar to that which exists under the present law. Should my motion prevail, the amendment offered by the gentleman from Vermont will still be open for other amendments. I have made this explanation so that my purpose may be clearly understood.

I shall now, as briefly as possible, state the reasons which have induced me to move to strike out the minimums from the amendment of the gentleman from Vermont, (Mr. MALLARY.) I shall not, at this time, discuss either the constitutionality or the policy of protecting domestic industry by legislation. I consider that these questions have long since been settled. This policy has been established, not under any particular excitement, not in high party times, but by all parties, and at all times. I admit that in our legislation we ought not to be bound by precedents; but yet it is equally clear that a uniform current of precedents, during a long period of years, furnish the highest evidence of the correctness of those principles upon which they are founded.

The system of minimums proposed by the gentleman from Vermont is an entire departure from the settled policy of the country. This policy has ever been to afford that degree of protection to domestic manufactures which would enable them to sustain a fair and successful competition with the manufactures imported from abroad. Our legislation has ever been at war with direct and immediate prohibition. In times past, it has been our policy gradually, not suddenly, to banish foreign manufactures from our markets. In this manner, the commerce employed by any particular branch of foreign manufactures is gradually diverted into new channels. No interest in the country sustains a shock. Even the price of articles, under such a protection, is but little enhanced in the beginning, and at the end of a few years, it sinks below the old standard. We have acted upon these principles since the origin of the Federal Government. Since 1789, when the duty upon woollen goods was fixed at 5 per cent. ad valorem, the increase has been gradual, until it has now reached 33½ per cent.

Let me ask this committee what would be the effect of the minimums recommended by the Harrisburg Convention, and proposed by the gentleman from Vermont? (Mr. MALLARY.) No man can doubt but that it would be the absolute, immediate prohibition of a very large proportion of the woollen goods which we now

import. Much as gentlemen may have differed concerning what would be the practical effect of minimums generally, no one has denied that these minimums would immediately, to a great extent, prohibit the importation of foreign woollens. Under the system proposed by the Harrisburg Convention a square yard of cloth, costing fifty cents, or below that price, would pay a duty of 28 cents. If, however, it should cost fifty-one it would pay a duty of \$1 40. Thus one cent of increase in the price would make a difference of \$1 12, or more than 150 per cent. in the duty. In order to reach the second minimum, we must suddenly rise, from cloth costing 50 cents the square yard, to that which costs \$2 50. Each square yard of cloth, then, which has cost any price above fifty cents, and not exceeding \$2 50, without regard to its quality, must pay the same duty of \$1 40. If, however, it should cost \$2 51, then it will fall within the operation of the third minimum, of \$4, and pay a duty of \$2 25. Thus at this point it will be perceived that a difference of one cent in the price will make a difference of 85 cents in the duty. There is a fourth minimum, which embraces all cloths costing above \$4, and not exceeding \$6, the square yard, which will operate in a similar manner. Cloth costing more than \$6 the square yard will pay only an ad valorem duty. Thus it will be perceived that the system of minimums is not only complicated and arbitrary in its nature, but it is calculated to deceive the people of the United States. And why? The amendment of the gentleman from Vermont proposes to increase the ad valorem duty 16½ per cent.; and to this point the public attention will be directed. But what will be the effect of the minimums which are covered under the veil of obscurity? I shall not make my calculations at the extreme points, because that might not be considered fair; but I shall take the intermediate prices between the minimums. They will be cloths costing \$1 50, \$3 25, and \$5 per square yard. Upon the first class the duty would be increased by the proposed amendment, from 33½, the present rate, to 84 per cent. ad valorem. I need not pursue this calculation further. Every gentleman can do it for himself; and he will discover that it will lead to similar results.

In my opinion no combination of wool growers and wool manufacturers, should ever attempt to dictate a tariff to the people of the United States. They would be more than men, if self-interest did not prejudice their judgment, and call forth propositions for their own benefit, at the expense of the community. The argument, therefore, that we should sustain this proposition, because it emanated from the Harrisburg Convention, is not entitled to much consideration; and more especially, as they have recommended a departure from the long-settled and long-approved policy of the country.

The gentleman from Massachusetts (Mr. BATES) has asserted, if I understood him cor-



rectly, that the Legislature of Pennsylvania have sanctioned and recommended the proposition of the Harrisburg Convention respecting woollens. In this he is entirely mistaken. The Legislature of that State, with the practical wisdom which marks its character, have drawn a line between protection and prohibition; and whilst they have recommended the one, they have denounced the other. They have also recommended such a tariff as will operate equally both upon the rich and upon the poor. This can never be the case under a system the principle of which is the higher the price between any two minimums, the lower the rate of duty. I shall read a few lines from the preamble to their resolutions. It declares, that "the best interests of our country demand, that every possible exertion should be made to procure the passage of an act of Congress imposing such duties as will enable our manufacturers to enter into fair competition with foreign manufacturers." And again: "*the people of Pennsylvania do not ask for such a tariff as would secure to any one class, or to any section of the country, a monopoly.*" They want a system of protection, which will extend its blessings as well as its burdens, as equally as possible, over every part of the Union—to be uniform in its operation upon the rich as well as the poor."

The amendment of the gentleman from Vermont, should it prevail, will be an absolute and immediate prohibition of nearly all the foreign woollens which are worn by the middle and poorer classes of the people. The cloth which they chiefly use, costs from 50 cents to \$1 75 per square yard in England. All this class of foreign woollens will be immediately excluded. As soon as the law shall begin to operate, they will be subjected to a duty of \$1 12 per square yard. This prohibition will annually become more extensive, because the second year the duty will be increased to \$1 26, and the third year to \$1 40 the square yard. When it shall attain its maximum, no cloth can be imported which will cost abroad between 50 cents and \$2 25 the square yard. I will not turn to the testimony for the purpose of proving; because it is within the recollection of all, that these are the cloths which are worn by the mass of our fellow-citizens; they are the cloths exclusively worn by the poor. Are the committee prepared, at once, to prohibit all this class of woollens? Although I am willing to go to a reasonable extent in protection, yet I never shall consent, at one deadly blow, to impose such an immense tax upon my constituents, for the benefit of the woollen manufacturers, as this amendment contemplates. It is true, our country is capable of producing wool in abundance, and we may soon erect factories in a sufficient number to supply the domestic demand, and thus reduce the price; but, in the mean time, the people would be compelled to pay extravagant prices for articles of the first necessity.

I have another remark to make on the amend-

ment now before us. The gentleman from Vermont has dissolved the friendly union which the Harrisburg Convention had established between the wool grower and the woollen manufacturer. Whilst he has now proposed to give the wool grower an additional protection of only 20 per cent. ad valorem, upon the importation of foreign wool, he has been urging the committee to sustain the recommendation of that Convention in regard to woollens. He is willing to adopt their opinion in its utmost extent, in favor of the manufacturer, whilst he has abandoned it in regard to the wool grower. Some of the wool growers have shown so much good nature throughout this transaction, that I should not be astonished to hear from them that an additional ad valorem duty of 20 per cent. will afford them more protection than the duty proposed by that convention. I do not wish to be misunderstood. I think the additional protection now proposed by the gentleman from Vermont, sufficient for the wool grower; although it bears no proportion to his proposition in favor of the manufacturer. It is the purpose of my amendment to reduce the protection which he wishes to extend to the manufacturer, so as to make it bear a just proportion to that which he has proposed in favor of the wool grower.

I shall now undertake to prove, that the minimums, which the amendment proposes, will be premiums for the perpetration of fraud and of perjury. Let us take a single example for the purpose of illustration. The importer of a square yard of cloth costing fifty cents, will pay a duty upon it of 28 cents; but should it cost fifty-one cents instead of fifty, the duty would be \$1 40. The same absurdity will be presented at and near each of the minimum points. What an inducement, then, does this amendment present for the commission of fraud? If the importer can, by any means, introduce foreign woollens into this country—which cost more than fifty cents abroad—at that price, or under it, he will save \$1 12 per yard in the duty. This will be a direct premium of \$1 12 on each yard for the commission of fraud and of perjury. It presents the strongest temptation to the importer and the foreign manufacturer to enter into a collusion for the purpose of deceiving the custom-house officers with false invoices. If successful, upon a single heavy importation, they would divide an immense spoil. We complain at present of fraudulent invoices, below the real price of the article, for the purpose of escaping a portion of the ad valorem duty. If such practices now prevail, of which, however, I have heard no satisfactory evidence, who can foresee the frauds and the perjuries which the system of minimums recommended by the Harrisburg Convention will call into existence?

It has been said that they (minimums on woollens) are sanctioned by the example of the cotton minimum of 80 cents per square yard. This I deny. There is a striking difference be-

MARCH, 1828.]

*Mounted Volunteers.*

[H. OF R.]

tween a single minimum, such as exists, in relation to cotton goods, and a graduated scale of minimums rising the one above the other, such as is now proposed in regard to woollens. Where there is but one minimum there can be no temptation to commit fraud. If the costs be below that minimum, you pay the minimum duty; if above it, you pay a duty ad valorem. Under the operation of the proposed system we have seen that, if you get one cent above the first minimum, it makes a difference of \$1 12 in the duty. But if the cost rises above the single cotton minimum, the article pays only an ad valorem duty of 25 per cent. There is another strong objection to this system. We are the representatives of the people; and in passing laws for their Government, we should make them so plain that the wayfaring man in the wilderness could understand their provisions. We have no right to render them unintelligible. I ask, then, how can it be expected that our constituents will understand the effect of these minimums, when we have differed so much among ourselves as to their operation?

If the measure proposed by the Harrisburg Convention should be adopted, there is great danger that it may give birth to a system of smuggling which would deprive the manufacturer of all the encouragement which we intended to give. Under that proposition the one-half of all the woollen goods imported into the country would pay a duty of more than 100 per cent. What a temptation would this present! Considering the vast extent of our coast, the people of the United States would be more than men, if some of them should not attempt to reap the golden harvest which smuggling would present. It would be a miracle if all should be so pure, that none would yield to the temptation. If you once corrupt the morals of the people in this respect, it will be like the letting out of waters. It will at last overwhelm all the protection which your laws intended to afford to domestic manufactures.

If you wish to adopt a prohibitory system you have not selected the proper course. You should follow the example of Napoleon. You should pass a direct prohibition, and confiscate and burn all foreign woollens which you can find in the country. This is the only mode by which you can carry prohibitory laws into effect. As long as you permit goods to enter the country at all, the higher your duties, the greater the temptation to evade them. Let us, then, tread in the plain path of our predecessors. The duty is now 83½ per cent. ad valorem. Let us raise it so much as to afford a fair protection to the woollen manufacturers. The people will then understand what we are doing. This has ever been my opinion. I was prepared to say much more, but shall refrain. I have performed a duty which I owed both to my constituents and myself in moving to strike out these minimums. I will not say that I shall vote in favor of no bill which shall contain minimums; but if I should, I shall do it

with reluctance. I have examined the bill reported by the committee with the utmost care; I have taken the half-way points between the minimums, and have considered the effect of the bill, both below and above them; and I have arrived at the conclusion, that the bill, if it could be fairly executed, would afford more protection than an additional duty of 15 per cent. ad valorem; although at the minimum points the increase of ad valorem duty is but small. I shall not trespass further upon the patience of the committee.

After a short answer from Mr. DAVIS, of Massachusetts, the question was taken on the amendment of Mr. BUCHANAN, and rejected without a count.

Mr. MILLER then moved the following amendment:

Strike out the first, second, third, fourth, fifth, and sixth paragraphs, of the amendment, and insert—

"*First.* On wool manufactured, forty per cent. ad valorem. And all wool imported on the skin shall be estimated as to weight and value, and shall pay the same rate of duty as other wool.

"*Second.* On all manufactures of wool, or of which wool shall be a component part, (except worsted stuff goods, blankets, bombazines, hosiery, mitts, gloves, caps, and bindings,) forty per cent. ad valorem."

The question was taken without argument, and the amendment was rejected by a large majority.

The question then recurred on the amendment of Mr. MALLABY, and that, also, was decided in the negative—ayes 97, noes 98.

TUESDAY, April 1.

*Mounted Volunteers for the Indians.*

Mr. DUNOAN submitted the following:

*Resolved,* That the Committee on Military Affairs be instructed to inquire into the expediency of attaching to the army of the United States, eight companies of mounted volunteer gun-men, to be stationed on the western frontier of the United States, and of disbanding, from the present peace establishment, one regiment of infantry.

The resolution was negatived; but, afterwards, on motion of Mr. GILMER, the vote was reconsidered.

Mr. DUNOAN said he considered the change in the army which was contemplated by the resolution he had submitted, was one of very great importance, and especially so to the settlers on the western frontier of the United States, who had so often suffered for want of a more efficient protection from the armies of the United States. He said it was a fact well known, that the Indians do not dread an army of foot soldiers, or any number of troops stationed in the forts on the line: that small parties of Indians were frequently known to pass by those forts with impunity, and commit the most shocking outrages upon the defenceless citizens, and make their escape unhurt.

He said he was aware that the House would receive, with reluctance, any proposition to make a material change in an important branch of the Government, without the most conclusive proof of the necessity or propriety of such a change, in consequence of which, he had written to General Gaines and Governor Cass upon the subject, knowing them both to be intimately acquainted with every thing which relates to the defence of our western frontier. He said he had received their answers; and moved that the correspondence with them be printed; which was agreed to.

The resolution was adopted.

*The late General Brown.*

Mr. VANCE moved that the House go into Committee of the Whole, on the bill for the relief of Mrs. Brown. The motion prevailed—yeas 75, noes 60.

On motion of Mr. VANCE, two letters were read at the Clerk's table, one giving a statement of General Brown's pecuniary affairs; the other on the nature of his disease, and its connection with the exposure he had endured in his last campaign.

Mr. VANCE then made a few observations in support of the bill. He stated that the main question for the consideration of the committee, was, "Is the family of the late Major Gen. Brown in want of the ordinary means of support? and if so, is it innovating too much on the practice of the House to grant those means of support?" Would such an appropriation be sustained by the previous legislation of Congress?

He had entered into an examination of the laws of Congress, and had found that such had been the practice from the very commencement of the Government. Even the very next year after the adoption of the constitution, laws, not indeed precisely similar to this, but more favorable to the widow, had been enacted. He referred the committee to page 184 of the 2d volume of the Laws of the United States, for the act, approved in August, 1790, by which Lady Stirling, the widow of a Major General, received seven years half pay. By the same act, the daughter of Lieut. Colonel Laurens received the same grant of seven years half pay of a Lieutenant Colonel. There had also been passed another act, which he would read. It was "an Act authorizing the payment of \$4,000 for the use of the daughters of the late Count De Grasse." This was an appropriation of \$1,000 to each of the daughters of the Count. This act was continued, in 1798, giving an addition. It was clear, therefore, that this bill established no new principle.

He hoped that, without going into any discussion, the committee would rise and report the bill.

Mr. WICKLIFFE said he rose to perform an important task, in expressing his opinion that the House could not, consistently with its practice, pass this bill. It was not sustained by any former precedent. General Brown was a

distinguished soldier, and his death was truly lamented. He had been reduced in his circumstances by a depreciation of his property, in consequence of the fluctuations of commerce, and had died indebted, and in a state of poverty. But this bill is not for a pension. It is a bill for a gratuity; and if it be granted, it would be impossible for the House to refuse the same to every soldier who might die under similar circumstances. If any soldier should hereafter die in similar distress and with similar claims, how could Congress say they would not grant it?

Mr. VANCE wished to state an additional fact. It had been the custom to pay gratuities and pensions to the widows and orphans of soldiers; and there was not a member on the floor who would say that any officer or soldier having performed the services of General Brown, who should apply for a gratuity, should not obtain it. If he was poor and destitute, he, for one, would say that he should obtain it; and there was no law which was more approved throughout the country, than that which gave five years pay to the widows of the soldiers who fell in the war. He would refer to a particular case—that of Col. Harding, who was, he believed, a relative of the gentleman from Kentucky, who was killed in 1797, on the banks of the Miami; and whose widows and children received a pension of 450 dollars for seven years. This was not all. The Congress of the United States, in 1798, when a non-contractor, while pushing on supplies to Major General Wayne, was killed, provided for his widow. The practice, therefore, was shown in almost every page of the statute book. He reminded the committee that this was a mere gratuity, and of that kind which the country would sustain in reference to a man who had sacrificed his life for the public defence. He would not take it upon himself to say that General Brown was superior to any other officer in the country; but he would say this, that he had performed services equal to any other. It was not only at Chippewa, Bridgewater, and Fort Erie, that he had distinguished himself: but in sustaining his perishing army at French Mills, where hundreds were frozen to death, when he kept down the rising mutiny, as much among the officers as the men, and when subalterns rose at once to the rank of majors, that he had laid his strongest claim to the gratitude of his country.

Mr. WICKLIFFE said he found himself obliged to say a few words, as a peculiar reference had been made to him, and to the gratuity granted to the family of Col. Harding. That officer did not die in a time of peace, while in the possession of a handsome salary; but was sacrificed, in a savage country, while carrying into execution what was rumored to be the mad orders of his commander.

Being thus destroyed while in the execution of the orders of the Government, the Government did grant a gratuity to his orphans until

[SEN., 1828.]

*The late General Brown.*

[H. or R.]

they should be able to take care of themselves. This was a very different case. If the present application were for a pension, in consequence of wounds received in service, it would stand on a different principle. But it was not so. The principle on which the other cases had been granted, arose out of the pension law. Wherever a gratuity had been made, it was either because of services which had not been compensated, or sacrifices of life while on public duty.

Mr. McDUFFIE said it was true, and he was glad it was so, that this unfortunate lady had not presented any memorial. It was a case in which he hoped to have seen a voluntary manifestation of the liberality belonging to the nation. He was sorry that the gentleman from Maryland should even have supposed that a memorial was presented. Who would have been the memorialist? A lady, a female, with all the delicate feelings belonging to her sex; one who would rather perish than come here to ask your charity. Shall we be told, when millions are about to be voted into the pockets of wealthy capitalists, because they have approached us with memorials, that this female is to have her claim rejected, because she has sent no memorial? He would tell the gentleman that he would never sustain a claim supported by a memorial, which he could not vote for, if it came here without a memorial. The argument is in favor of the claim. On what is this claim founded? General Brown contracted a disease in the public service which terminated in his death. The document which had been read shows that his disease was a paralysis which destroyed his faculties, and which was caused by the wounds he received in war. It also appears that he was in affluent circumstances, previous to his entering the service, but that he had subsequently become involved, and had now left his family destitute. The fact now is, and it was derived from the best authority, that Mrs. Brown is left with a family of small children, destitute of the means of education, or even of present support. Had General Brown been laid on the bed of sickness for twelve months, we should have paid him his salary and allowances. As he died, his salary ought to be given to his family. The usual practice in the departments, is to give to the family a quarter's salary. This bill only extends the principle a little further. As to precedent, he would only say, if the claim could not be supported on its own merits, without the aid of precedent, he would not vote for it merely because precedents could be quoted to support it; but, resting on a sufficient basis of merit, he would vote for it if a thousand precedents could be produced against it.

Mr. CULPEPER said he coincided with the gentleman who had last spoken in the propriety of the claim, and on that ground he should vote for it. He had always been independent enough to disregard precedents in his course, and he should continue to do so.

Mr. LIVINGSTON said he should vote for the bill as a matter of duty. It had given him great pleasure to perceive that the principle on which the bill was founded was not contested, and that it was thus admitted to be proper to recompense not only those who serve, but those who depend upon them; that Congress may smooth the pillow of the dying patriot, as well as the glorious bed of the expiring soldier. This had not been contested. The gentleman from Kentucky had said it was proper to reward the families of those who died in service. Does the circumstance of dying in service render a man more deserving? We reward him because of the services he renders, and not because he dies; it is not his death, but his services that we recompense. The same gentleman had warned the committee to look at all the consequences of the measure. If you give in this case, he had asked if we could refuse to others? Yes, we may properly, justly refuse, if the merits of the case are not sufficient. We are never bound by precedent to do wrong. The principle is to reward the faithful services of an officer whose family is destitute. This can be no precedent for other cases, unless they are precisely similar. When any such shall come before us, he would say, with all his heart, that we ought to be bound to act in a similar manner. Show him a man whose services are equal to those of General Brown, the wants of whose family are as great, and he should not consider it a profuse act to put his hand in the treasury to save his family from the miseries of want. This was the reason which would govern his vote in favor of the bill.

Mr. GILMER stated that an important principle was involved in this bill. He contended that the House had no power to do acts of partial legislation. If it was right that this reward should be given at all, it ought to be done by the passage of a general law providing that all the widows of those who die in similar situations should be entitled to the same privileges. In this country we know no distinctions. If Mrs. Brown be entitled to this provision, the widow of every patriotic officer who dies poor is entitled. Mrs. Brown is not known to the law. Before this claim came here, was there any gentleman disposed to present a proposition to give a similar gratuity to all the widows of officers who should be left in want? If the principle had been a correct one, this would have been done. It is not correct, because it is brought up only in an individual case. We have no special privileges here. The gentleman from Louisiana says the true principle is to reward patriotism. If an officer goes into the service, he receives rank and compensation in money. But the reward of patriotism is not money. Its reward is honor, rank, and the glory of the country. Has not General Brown been rewarded? If he had rendered distinguished services, he had received distinguished rewards. He had been placed at the

H. OF R.]

*The late General Brown.*

[APRIL, 1828.]

head of the army; he had received as liberal a compensation as the country had the power to give him.

It was said that he died in consequence of a paralysis. What reward had he received since he was attacked by that disease? Did the country deprive him of his command in consequence? He did not mean to say that the country would have been justified in doing so; but it was a liberal extension of reward. There was no patriotism in remaining in the army. No one would have been considered unpatriotic in leaving it. We have no testimony that he sacrificed a dollar in the public service. If it could be shown that he had done so, a liberal and grateful country would always give a recompense.

Let the gentlemen who advocate this bill draft a law, having a retrospect and prospective effect; and see if Congress will pass it. He did not doubt that the family of General Brown deserved our sympathy. But he was averse to making money the reward of patriotism. Mrs. Brown felt the dignity of her own situation. She would not now exchange it for any other; and in that feeling she finds her best reward. He contended that we have no right to legislate for individuals. To grant this appropriation would not add to the strength of our military power; if it would, the principle should be made general, and passed in that form.

Mr. LITTLE said that if he viewed this measure in the same light as the gentleman from Georgia did, he should vote against the bill. But he found a precedent for the principle in the law giving five years' pension to the widows of those who fell in the war. They have received that pension. The disease of which General Brown died, was contracted in the army, while in the line of duty. If gentlemen would take the trouble to examine, they would find many provided for, whose husbands died in consequence of disease contracted in service. It is true they have memorialized Congress. Liberality has been meted out to them in many instances. The loss of General Brown has placed his widow in a situation of great distress. He did not say it to excite sympathy, but to state the fact, that Mrs. Brown had been left in such indigent circumstances, that, to use a military term, her children are billeted out among her friends.

Mr. LIVINGSTON wished to make a remark or two in reply to the gentleman from Georgia, who had put the question—"Is patriotism to be rewarded by gold?" He would say, no. He knew of a higher reward, as well as the gentleman from Georgia did. Those who devote their lives to their country, are not actuated by such paltry motives. But that consideration ought not to prevent us from doing our duty. When our patriotic citizens have yielded their lives, are we to say we have given them a sufficient reward in the glory which they have achieved? Is this to be the reward?—the only reward? Yes, said the gentleman

from Georgia—that is their reward. If the power of giving rewards of a different kind be the only badge of tyranny, it is so bright a badge that it may almost reconcile republics to it. Does it oppress any? Certainly not the objects which it relieves. Where is the citizen who has ever cast censure on Congress for acts of beneficence like this, or who ever blames such acts? The gentleman from Georgia said the principle was only correct as a general one, if it was right at all; but that it was not right as regards individuals. Why this distinction? If we have the power to make a law for all, have we not the smaller power to make a law to recompense an individual? If we have the general right, we have surely the smaller right of selection. Our whole course of legislation has been selecting individuals. We have now a hundred bills on our table for the relief of individuals, and we are daily adding to them. Yet according to the gentleman from Georgia, we should only give general relief. He concluded with suggesting that we should act upon the cases which came before us, seize the present moment, and not leave the poor widow to starve on the glory which her husband had acquired.

Mr. S. WRIGHT wished to state one or two facts. Not only was General Brown a native of his State, but of the very district which he represented: and he could not sit silently on this occasion. When the last war commenced, General Brown was a peaceful farmer, living on his farm, independent of creditor, of poverty and of distress, with his family about him. As the war advanced, the country in which he resided became a military post, and his neighborhood was attacked by the enemy. He was then under the State authority, a brigadier general of militia. He called his brigade to the point of attack. Of his actions there he would say no more than that the enemy disappeared, and the post was saved. If that was patriotism it was not for him to say. He left it for those of greater experience to determine. This act drew upon him the attention of the Government. He disregarded his own comfort and the welfare of his family, and accepted the post offered to him. The facts which afterwards occurred are too deep in the recollection of the country to require to be repeated. What followed? In the reduction of the army, General Brown was appointed commander. His duty required him to remove with his family to this city. He knew him well when he removed. He sickened and died, whether in consequence of his wounds he considered immaterial. If he had done ill, he had gone to render his account; if he had done well, he seeks not of this committee his reward. It is his needy, impoverished family who come to us. Are they asking affluence of us? No, only the remainder of the salary of the husband and father for a single year. The simple question is, shall this family, stepping from the highest circle of military rank, go begging through the

APRIL, 1828.]

*The late General Brown.*

[H. OF R.]

country to the spot were they have friends! It was not a question which he would consent to debate—it was one for feeling only.

Mr. McDUFFIE rose to offer a few words in reply to the gentleman from Georgia. That gentleman seemed to suppose that we have no power to legislate for particular cases, although we have the power to legislate generally. He would like to know on what principle the gentleman could make up his mind to vote for a hundred cases, and not for one? He presumed the gentleman from Georgia meant that Congress had no power to give a gratuity—but only to recompense services. The pension law in 1818 gave away 40 millions: and by it every poor soldier who stands in the situation of this lady receives eight dollars a month. What power had Congress to grant this? Did we stipulate by contract, to do this—to give this gratuity? There is no principle which will sustain the pension law, that will not also sustain this. Why has Congress given a pension of five years' pay to the widows of those who fell in service? There is no law binding on Congress to do this; there is none required, but the law of the human heart, to which when we are here insensible, we shall be unworthy of public trust. If General Brown had died in war, his widow would have been entitled to the pension of five years' pay. The gentleman from Maryland was mistaken in supposing that any distinctions exist which are injurious to the soldier. Dying in time of peace cannot affect the justice of the claim. In reference to some other remarks which had been made, that gentlemen would give their own, but not the public money, he considered this idea founded on a mistake as to the relation in which the representative stood to the constituent. He asked how it would read in history. Gen. Brown, the immortal hero of Chippewa, one of the most glorious battles ever fought in the open field, contracted a disease, he became embarrassed, sickened, and died. He left a family in want. A proposition was made in this republican Congress, to grant them the residue of the year's salary for their relief. This republican Congress, illustrating the sneers of tyrants, that republics are always ungrateful, refused the boon, and the widow of this officer went begging through the country to her friends. He asked what his constituents would say to him, if he went home with an excuse that he could not give away their money? We are asked for what is less than one-tenth of a cent for every citizen. As long as he was here he would endeavor to perform his duty according to his views of correct principles. He believed he was right in voting for this bill, and that he had not a constituent who would not deem himself disgraced, did he vote against it.

Mr. GILMER made a reply—the commencement of which our reporter did not hear. He stated that the pension law was not analogous in its principle. The soldiers provided for by that law had not been paid for their services.

They were militia. The militia who fought under Marion, in South Carolina, were not paid. The principle therefore in which this law was founded, was not the same as was laid down by the gentleman from South Carolina. The Government was under an obligation to place the militia on the footing of the regular army.

If this bill was to pass, those who die in civil offices, in a state of poverty, will be entitled to the same consideration for their families. He denied the power of the Government to reward the motive of action. A different reward awaits it. He stated that the trite axiom relative to the ingratitude of republics, had driven us into the most wanton extravagance. If any of the officers of the Government were not sufficiently paid, he was willing to increase their salaries; but he would not make particular exceptions, nor squander money on peculiar cases. According to his view of the constitution, no money could be appropriated but within the specific meaning of that instrument. He repeated the arguments he had before used; denying the power of the Government to adopt a principle of this kind, unless it could be shown to strengthen the military power of the country, and if it could, that the principle ought to be embodied in a general law.

Mr. FLOYD said he was in hopes that the vote would have been taken on this bill without debate. But, as a different course had been pursued, he felt himself called upon to make a few observations in justification of the vote he was about to give. He then proceeded to make some remarks on what had fallen from gentlemen who had preceded him, in the course of which he was corrected by the gentleman from Louisiana, whose observations he had misunderstood. He said, if gentlemen who intend to vote for the bill could reconcile it to their constructions of constitutional law, it lay between them and their constituents. The gentleman from South Carolina had estimated the tax on his constituents at one-tenth of a cent; but if it were less than that, he would give what he had no right to give under the constitutional law. It was made an argument in favor of the bill, that we should not give tyrants an occasion to taunt republics with ingratitude. What would history say of us, if for fear of tyrants, we consent to tear out this leaf of our constitution?

When you come to vote money for those who are disabled in war, it is a part of our contract with them. Is this a parallel case? When swords and medals, and votes of thanks are given, are these no reward? What higher reward can be given to human beings than the thanks of a nation? Would the paltry pension given to an English nobleman compare with it? Are not the laurels of the Duke of Wellington tarnished by his becoming a pensioner?

Mr. CARSON, of North Carolina, said, that his friend from Virginia (Mr. FLOYD) had remarked, that General Brown had reaped a golden harvest of honor by the vote of thanks from

Congress, and a vote of a sword and medal, as a reward for the services he had rendered his country. Sir, said Mr. C., they are immortal honors, and such as I would give my life to be worthy of. But those votes show that the services of General Brown merit reward, and call upon that country, in whose service his life was sacrificed, to render some relief to his widow and his little children. Sir, they are penniless; the evidence is before us of that fact. And are we to be told, that a vote of thanks from this House is all the reward that is due to the merits of General Brown? Can his children, sir, be raised and educated upon a vote of thanks from this House? Can they eat the sword and medal awarded by this Government to their father, for the services rendered, and for the sacrifices which he made in its defence? Or shall we, by refusing this relief, compel his widow to sell that sword and that medal which the gallant conduct of her husband won in the field of battle? Shall we compel her to part with those precious relics, endeared by every recollection of her husband, for the support of his children, whom he had left to the protection of his God and of his country? Sir, (said Mr. C. resuming his seat,) my feelings will not permit me to express more.

On the engrossment of the bill for a third reading, the ayes and noes were ordered, and were—yeas 88, nays 77.

WEDNESDAY, April 2.

*Family of General Brown.*

The bill from the Senate for the relief of Mrs. Brown, was read a third time.

MESSRS. CHILTON and OROCKETT (who had been absent from the House during the discussion yesterday) delivered their sentiments in opposition to the principle of the bill. The latter offering to subscribe his quota, in his private character, to make up the sum proposed, and the former demanded the yeas and nays upon the passage of the bill.

Mr. CLARK, of New York, then rose and said that, having been absent from the House yesterday, when the discussion was held, and the vote taken on this bill, he felt grateful to the gentleman for his call for the ayes and noes, as it gave him the power and pleasure too, of recording his name in the affirmative. What, sir, (asked Mr. C.) are we called upon to do? To award a small pittance to the disconsolate widow of one of the gallant defenders of your country, one who perilled health and life in that service, and who in that service, contracted a disease which has hurried him to the tomb, and deprived that widow and his children of their kind and natural protector.

The first inquiry is, have we the power to pass the bill? The constitution gives us every necessary power to raise and support armies, and to provide for the common defence. Under this grant, and for the purpose of effectually attaining its objects, you hold out to your citi-

zens pecuniary and other bounties, to influence them to enlist into your military service. For the purpose of enforcing discipline, you make your soldiers the subject of penal infliction, and for the purpose of exciting their ambition and stimulating their ardor, you hold out to them the prospect of pecuniary bounty. Your whole pension system, by which you provide for your officers and soldiers, has for its object a remuneration for the toils and privations of a military life; it holds out a powerful stimulus to the achievement of deeds of daring and of glory. Laws have been enacted, not only allowing pensions to officers and soldiers for wounds and disabilities received in the service, but these humane provisions have been extended to the widows and children of such officers and soldiers. By the act of 16th March, 1802, the widows and children of our officers dying by reason of any wound received in the service, are entitled to half pay for five years. The like provision was made by the act of 1812, for the widows of officers and soldiers who fell in the Wabash campaign. The act of January, 1818, made the same allowance to the widows and children of officers of the navy and marines. By subsequent acts, the "widows and orphans of officers, seamen, and marines, who have died by *casualty or disease*, in the line of their duty, have been provided for, and half pay allowed them for fifteen years." The act of the 4th of March, 1814, made a like provision for the widows of officers in the private armed service. By the act of April, 1818, these provisions were extended to the widows of those who have died by "casualty or accidents." On what principle have these provisions been made? Was it on the ground of contract? Was it a part of the bond? No, sir. It was the result of a wise, humane, and enlightened policy, a policy which, in the hour of peril, calls around your standard the chivalrous and the brave. Had General Brown sealed his devotion to his country's service, by an immediate sacrifice of his life on the "battlefield," his widow, on the principles of former legislation, would have been entitled to half pay for 5 years. Then what matters it whether he thus died, or lingered for years, from wounds and disease incurred in your service. From such wounds and disease he has endured years of suffering and pain. He has fallen a victim to the pressure. The fact is established, that the primary cause of his death was to be found in the sickness of the camp. But for this he would have been at this time at the head of your army. But for this he would now have been in the enjoyment of life and health, with the prospect of future usefulness to his family and country. And shall we now say, by our votes, that this family has no claim on the gratitude or the justice of the republic? Shall we close our doors against the widow of this gallant veteran, who had so often bared his bosom to the foe? Sir, I had indulged the hope that this bill would have passed in silence—a silence suited to the

APRIL, 1828.]

*Tariff Bill.*

[H. OF R.]

occasion—a silence indicative of a nation's gratitude, and a nation's tears. I had hoped that this vote would have been characterized by a unanimity which would have whispered joy and consolation to the widowed heart; which would have administered the "oil and wine" to her wounded spirit; which would have been not only the messenger of mercy, but the expression of a nation's homage to the exalted services and merits of the deceased. Sir, the passing of this bill will be hailed by the American people with acclamation. A brave and generous nation will stamp upon it the seal of its approbation, and feel a high and noble pride, that their representatives have executed a sacred trust.

Sir, it is said, that "glory is the soldier's pay." I trust that glory is the chief object which the American soldier has in view, and which spurs him on to the performance of heroic actions. For this, sir, he seeks reputation in the "cannon's mouth;" for this he courts death in the "imminent deadly breach." But add to this, the assurance that a grateful country will adopt his wife and children, as the objects of its care, and you give to his ardor a double force. What can more effectually nerve the arm of the soldier, than a belief that in the event of his fall, he leaves those who are dear to his heart, the wife and children of his bosom, to the protecting guardianship of his country? With this conviction he rushes to the combat, mingles in the deadly strife, and expiring amidst the shouts of victory, he bequeathes all he has to bequeath, his honor, his glory, to immortality—his wife and children to his country. And will that country decline the bequest? No. She will press them to her bosom, as the cherished objects of her kindest regard, and cheer the desolation of widowhood and orphanage, with her smiles and her protection. Sir, some gentlemen have a fastidiousness on this subject, which I cannot appreciate. They were not sent here to vote away the people's money in this way. They are willing to be generous and charitable as individuals, but as legislators they can indulge in no such feelings. I was sent here to vote away the people's money, when that vote shall be sanctioned by a sense of duty, and warranted by the constitution; and whatever may be my sentiments in regard to private charity—I will not deprive my constituents of the proud satisfaction which I know they feel, in sharing the honor of the appropriation. I have no fear that my vote will not be hailed by their approving voice. Indeed, sir, I should be ashamed to look them in the face, with my name in the negative. Rather might my arm fall "palsied from its sockets," than be raised in opposition to this bill.

The war of 1812 found Gen. Brown happy in the bosom of his family, surrounded by competence, and in the enjoyments of the ease and comforts of domestic life. At the call of his country, he left the plough, and relinquished all

the pleasures of peaceful retirement, for the hardships and perils of the "tented field." His private concerns were then necessarily neglected, and the peace found him extremely embarrassed in his pecuniary circumstances, with feeble health, with a constitution naturally robust, shattered in the service. With ruined fortune, he dragged out a tiresome existence, till death relieved him. He has been removed from us, and he has left to his family nothing but the recollection of his virtues and his fame. That fame has become the common property of his country. His deeds constitute a brilliant portion of its history, and as long as the cataract of Niagara shall roll its torrent near the scenes of his glory, so long shall his deeds live fresh in the recollections of his countrymen. Now, sir, can we hesitate a moment to pass this bill? Shall we disappoint the just expectations of our constituents, in refusing to do an act sanctioned by justice, gratitude, and magnanimity? Will you spurn from your door the widow and orphans of one of your bravest Generals, and cast them on the charities of an unfeeling world? Will you send her back poor and penniless to a desolate mansion? Sir, no hospitable mansion opens its doors to receive her. She returns to the scenes of her past happiness, dependent on the kindness of friends. Let us cheer her on the way; let us restore her to her home, with a heart fraught with emotions of gratitude and joy. Then will she pass the remainder of her days in quiet, and employ your bounty in rearing to manhood the future Browns of the country.

The question was then put on the passage of the bill, and decided by yeas 97, nays 74.

So the bill was passed and returned to the Senate.

### *The Tariff Bill.*

Mr. BRYAN said: The honorable gentleman from Pennsylvania has said that hemp and molasses is a miserable theme for eloquence. Sir, I readily admit that it does not appear to be a theme for rhetorical flourishes, and beautiful imagery, nor am I ambitious of investing the subject with artificial dignity or splendid decorations. My object, sir, will be more satisfactorily attained, if I can impress upon the committee "plain matters of fact," and such inferences from them as common sense must make. The honorable gentleman, according to my apprehension of his remarks, has treated the additional tax proposed on molasses as a small business, and seems to wonder that it should produce excitement. Sir, if it be such a small affair, I am sorry indeed that the Committee on Manufactures should have stooped to notice it. I can assure the gentleman that it is a matter of serious importance to my constituents, as well as to the citizens of the Eastern States.

The honorable gentleman from Maine seems to suppose that the State which he represents in part, so ably, is more interested than any other in the Union. I am glad that he thought



so, as it inflamed his ardor, and animated his zeal, in a good cause; but I can assure that gentleman that the State of North Carolina has also a most important interest at stake, and I am happy to have his able assistance, or rather to co-operate with him, in defending the interests dependent upon the West India trade, however humble they may seem.

The only foreign trade of North Carolina is, and long has been, with the West India islands, while the shallowness of our waters forbid our participation in the European trade. The nature of our productions—our contiguity to those islands—their wants and their produce, early invited an intercourse with them, which has been maintained and persevered in under great discouragements.

Indeed, this intercourse being founded upon the only true basis of all commerce, mutual wants and mutual demands, has been sustained as it were by the efforts of nature herself. North Carolina produces, in great abundance, the materials for such an assorted cargo as is most desired in those islands. We can export, in almost any quantity, lumber of all kinds, staves, shingles, pork, bacon, corn, peas, beans, naval stores, fish and live stock. The principal trade, however, sir, is I believe, in the various kinds of pitch pine, lumber, staves, and shingles. We receive in return, from various islands, molasses, sugar, coffee, rum, salt, and to a much greater amount than is required for the consumption of our own citizens. Many of our merchants make extensive shipments of lumber, &c., and order the return cargoes to New York, or other northern ports, to pay for goods bought of the merchants of those cities; and this is found to be a mutually advantageous mode of making remittances, or, in other words, of paying their debts.

This trade, sir, is also very convenient to Northern ship owners. Numbers of their vessels frequent our ports in the fall of the year, and find employment till the spring in freighting our lumber, &c., to the West Indies, while others carry out cargoes of their own products to the islands, and there barter them for West India produce, which they bring to North Carolina and exchange for lumber, &c., or corn, and thus procure successive cargoes, continually increasing in value, and furnishing alimant to an enterprising traffic.

This trade from North Carolina is, I believe, principally with the French islands. It is essentially a barter trade. We are not allowed to export sugar, coffee, or specie from a French island; molasses is therefore received of necessity as a return cargo. The condition of this trade at present certainly cannot bear an additional burthen; and, Mr. Chairman, I cannot believe that this House would consent to impose the additional burthen contemplated by this bill, with a full understanding of the subject in all its bearings and operations. As the trade is now conducted, it barely sustains itself; its great value consists in the employment

which it yields to a numerous class of our citizens—many, especially of the poorer classes, are employed in the various operations of getting lumber and the different kinds of timber for the West India market. The winter season is most advantageously devoted by the farmer to these occupations, and he is thus enabled to procure the groceries for his family which are now deemed the ordinary, if not necessary, comforts of life.

I think I may say, sir, that about seven-eighths of the tonnage of North Carolina is employed in this trade, and about forty vessels from the port of Newbern alone. I suppose, upon an average, about four or five West India voyages may be made in the year.

The House will readily perceive sir, that if this vent for our products is closed, great and general distress must ensue. I have said, sir, that the trade cannot bear this additional burthen. This assertion, sir, I think may be incontrovertibly sustained.

The average sales of lumber, at the French islands, for the last twelve months, may be estimated, I understand, at \$82 per thousand, payable in molasses at an average price of 21 cents per gallon. Adding to this the price of the hogshead, \$850, and 5 per cent. for difference or loss on gauge, and the present impost of 5 cents per gallon, the cost of the importer is enhanced to 31 or 32 cents per gallon, without any allowance for freight or insurance. The average cargo sales of molasses in the United States for the last twelve months, have not exceeded 27½ cents per gallon, thus showing a loss of 2½ or 3½ cents per gallon.

In the trade with Hayti, the price of lumber does not vary much from the price obtained at the French islands; payments in that island are uniformly made in coffee, on which a loss is sustained of 10 or 12 per cent. In the Dutch, Swedish, and Danish islands, the sales of lumber average about 25 dollars per thousand, but this decrease of price is compensated by lower port charges, and better payments than in the French islands, sales being usually made for cash, or for colonial produce, at much lower prices than are exacted at the other islands. As gentlemen, in the course of debate upon other sections of this bill, have offered numerous statements and calculations, made by respectable manufacturers, I trust it will be in order for me to offer to the consideration of the committee a statement, exhibiting an invoice of a cargo of lumber, for a vessel of 100 tons, with an account of sales of the same, in a French island, and in a Danish, Dutch, and Swedish island, which has been furnished me by a ship owner, for whose integrity and intelligence I can vouch to the committee.

[Here follows the invoice, the results of which are stated in the speech.]

The result of the voyage yields a freight of seven or eight hundred dollars on sixty-one thousand feet of lumber, that is 12 or 18 dol-

ARIZ., 1828.]

Tariff Bill.

[H. OF R.]

lars per thousand, or if reduced to barrels, of 75 or 80 cents per barrel; which will but little more than defray the expenses of the voyage, and must convince any one acquainted with shipping business, that the additional burthen proposed must crush this trade. Sir, in estimating the profits of commercial operations conducted from the ports of North Carolina, the heavy burdens which nature has already imposed upon us by the shallowness of our waters, especially the consuming expenses of lighterage and detention at the shoal called the Swash in Pamlico Sound, to which all the navigation of the State which seeks the ocean by Ocracock Inlet (comprehending about three-fourths of the whole) is subjected, should never for a moment be out of view.

As a clear and forcible illustration of this deplorable state of our commerce, I beg leave to read an extract from the memorial of a convention of highly respectable and well-informed delegates from the ports dependent on Ocracock Inlet, assembled to devise some means of removing these evils, or mitigating their almost intolerable severity:

"Your memorialists believe that the annual exports of the products of our country through Ocracock are not overrated when estimated at five millions of dollars, requiring for their transportation, and actually employing two hundred thousand tons of shipping.

"They find, from calculations carefully made and compared, that the charge on these vessels for lighterage and detention at the Swash, averages one dollar per ton, and amounts, annually, to two hundred thousand dollars; that the additional rate of insurance, because of the risk and detention at the Swash, averages three-quarters of one per cent., and amounts, on the exports and imports, to seventy-five thousand dollars, and on the vessels, to sixty thousand dollars per annum. This annual tax of three hundred and thirty-five thousand dollars upon the navigation of our section of the country, independently of the minor evils, the vexations and difficulties which will be readily perceived, cannot but enhance the freight or cost of conveyance to market. The price of freight from Norfolk, and Wilmington, (North Carolina,) the latter but 120 miles distant from Ocracock to the West Indies, is from 20 to 25 per cent. less than from the ports dependent on Ocracock Point; which difference on bulky articles, such as lumber, staves, and shingles, amounts to between 30 and 40 per cent. of their original value. The freight and charges on articles shipped coastwise for reshipment to their places of consumption, amounts, on naval stores, to 25 per cent., on cotton, to between 10 and 15 per cent., and on staves, to 50 per cent. of their original value." These charges are all borne by the industry of the country—they are discerned "in the low price of the products of North Carolina industry, in the ports dependent upon Ocracock Inlet, compared with those where the costs of detention and perils of lighterage are not to be encountered. While at Suffolk, in Virginia, pipe staves command forty dollars per thousand, at Murfreesboro, and Winton, (about thirty miles distant,) they are sold at twenty-five dollars. Red-oak staves, which at Washington, North Carolina, Newbern, and Edenton, scarcely command ten dollars per thou-

sand, usually sell at Wilmington for eighteen and twenty dollars."

This shoal was examined by a Board of the United States Engineers, under an act of Congress passed about two years ago. They state in their report, that "the present state of the navigation at Ocracock is deplorable in the extreme." It must be obvious to the committee from these facts, that the imposition of this additional duty will operate as a complete interdict to our West India trade; and that will be in effect to our whole foreign trade. The constitution prohibits a tax upon exports; here will be such a tax upon their substitutes or representatives, that is, the commodities for which they are exchanged, as effectually to prohibit their exportation. We might, with great justice, it seems to me, Mr. Chairman, before this additional burthen is imposed upon us, call upon Congress to place us upon an equal footing with the other States engaged in this trade, by removing the obstructions to our commerce, that we might be equally qualified to bear it, otherwise the greatest injury must result to us from the peculiarly oppressive operation of the tax upon us. I trust, Mr. Chairman, that the brief review which I have made of the navigation and commerce of North Carolina will acquit me of being a trespasser upon the time and patience of the House. As I have the floor, sir, I will invite the attention of the House, for a few moments, to the commerce of the United States, generally, with these islands.

From the official statements which have been made to this House from the Treasury Department, it appears that our exports to the West Indies for several years have averaged about sixteen millions of dollars, and that our imports have been about the same in amount. Our exports to the island of Cuba alone, for the year 1826, exceeded six millions of dollars, and our imports amounted to nearly eight millions. The closing of the ports of the British islands against us, does not seem to have materially affected the amount of our exports and imports. The enormous port charges in the English islands, and their rigid inspection, frequently rendered a voyage ruinous to the adventurer. I have been credibly informed, that at Jamaica, upon a vessel of 125 tons, carrying about 90,000 staves, the port charges, duties, commissions, inspections, &c., amounted to considerably more than the first cost of the cargo, (upwards of \$1,000.) There being no market to the leeward of this island, and it being impossible to get to one to windward, the shipper was obliged to sell for whatever price the British merchant chose to offer; and, too frequently, this price was rather adapted to the necessity of the shipper, than the value of his cargo; there was but one party to this bargain. Now the British merchant is compelled to meet the American shipper on neutral ground with his colonial produce, and it requires both parties to make a bargain. I question, sir,

whether the colonists are not convinced by this time, that the mother country has sacrificed their interests to State policy, and is desirous of building up the Canadas, and her other American provinces, at their expense. The value of the imports into the United States during the year 1826, from the Danish West India islands, was nearly equal to that from the British West Indies, as the Treasury document referred to will show. The import of molasses for 1826, from the West Indies, amounted to 18,651,155 gallons, of which only 1,783,988 gallons were from British islands. This importation, estimated at the cargo price of 27½ cents per gallon, amounts to nearly four millions of dollars. From this brief general view of the West India trade, it certainly, Mr. Chairman, is sufficiently important to demand the deliberate consideration of the House, before they adopt a measure which must so seriously affect it—which must destroy it in some sections of the Union. And why, Mr. Chairman, shall this flourishing trade—a trade, sir, which, I repeat, is so natural, so convenient, and conducted upon such fair terms of reciprocity, (I exclude the English islands, of course,) why, sir, shall it be so grievously oppressed? it paid into your Treasury, in 1826, more than six and a half millions of dollars in duties; it rears for the defence of our country, a hardy race of seamen; it supports an industrious population on land; it employs many thousand tons of shipping which must otherwise rot at the wharf, to the ruin of the ship-owner. The united exertions of these classes of our citizens convert our dreary forests into articles of comfort and subsistence, and make substantial additions to the wealth of the nation.

The Committee on Manufactures, who recommend this additional duty, state that a large quantity of the molasses imported into the Eastern States is distilled, and that the spirits thus distilled interferes with the domestic spirits distilled from grain. The committee state that "they hazard nothing in the assertion that the coarse grains are now grown in these States in sufficient quantities to furnish them a full supply of ardent spirits, if the demand was in no other manner supplied;" and that the testimony before them, among other things, shows "that the quantity of these grains can be increased, &c., to answer any demand, if demand could be created." They, therefore, recommend an additional duty of five cents on molasses, and of ten cents on all foreign spirits, without regard to quality or proof. They further inform us in another part of the report, that "the whiskey of this country has become very palatable and very fashionable," &c.

It seems then, sir, that we are in the first place to create, by legislation, a demand for whiskey, and by excluding foreign spirits and molasses, to compel its use. I would here pause, and ask this House to reflect upon the character of such a proposition. It seems to

me, sir, monstrous both in a political and moral view. The materials and industry of numerous classes of our citizens by the operation of the West India trade, are exchanged for many millions of gallons of molasses, which is largely used as an article of diet, by all classes, and especially by the poor, and is undoubtedly very wholesome and nutritious; besides, it yields a large and increasing revenue to the Government. I would respectfully ask, sir, why the fruits of their industry and capital is less worthy of protection because it appears in the shape of molasses, than if it appeared in the more "fashionable" garb of whiskey; it is also a strong recommendation to molasses, that it can be taxed by an impost duty; whiskey can only be taxed by an excise, and that, it seems, is a hazardous experiment, and not to be resorted to in time of peace. So far, sir, from this Government attempting to create a demand for whiskey, I had hoped that the proposition from the Committee on Commerce to reduce the duties on wines, would have met a favorable reception from the House; it is strongly recommended by its tendency to substitute the use of pure and wholesome liquors for that of noxious ardent spirits, thus promoting eminently the moral and physical health of the nation.

Sir, I do not intend to enter into a formal contestation of the assertion of the committee, that whiskey is very palatable and fashionable, because I know, sir, there is no disputing about *tastes*; but, on behalf of my constituents, I must protest against such a doctrine going abroad to the world as the sense of this House—my constituents have not yet become so fashionable as to discard Madeira (when they can get it) for whiskey. "Madeira was good enough for them," as was said by one of our worthiest citizens and most respectable merchants.

But, Mr. Chairman, to return to the sober consideration of this matter. The bill is intended, we are told, as a compromise between the two great contending parties—the manufacturers and the growers of wool and grain in the Middle and Northern States—the interests which cannot arrange themselves under the banner of either one or the other, are to be trodden down in their march to what they deem their mutual advantage. I hope, sir, that they may not arrive at a Moscow, where, when they have seized the prize, they will find nought but ruin and desolation. Sir, what possible benefit can the State which I have the honor in part so inadequately to represent, derive from the bill? What compensation for the annihilation of her West India trade? None, sir; burthen is added to burthen. The Northern and Eastern States may derive some compensating benefit from protection and building up of their manufactures, into which their capital must be speedily transferred—they have also left open to them the trade with the British North American provinces, which is now

Ann, 1828.]

Tariff Bill.

[H. OF R.]

very considerable. In neither of these can we participate—they operate as additional burthens upon us, because they make us tributary to our Northern and Eastern brethren.

I know, sir, that it has been customary to consider the State which I have the honor in part to represent, as but little interested in commerce; and it is true that we have but little European trade. Yet, sir, upon examination of the Treasury records, it will be found that our aggregate tonnage of every kind is very little inferior to that of Virginia, and is actually greater than that of any State south of us. We have many little ports where vessels are owned, which are employed in the coasting and West India trade; and the amount of our exports appears, from the memorial to which I have referred, to be very considerable.

Is this interest, sir, and the great agricultural interests connected with and dependent upon it, to be sacrificed, to try the experiment of making the American people consume whiskey? I repeat, sir, what has been before urged, that it is with our agricultural products, and the products of the forest, that we buy West India products. This is the natural and most effectual way of encouraging agriculture—commerce here acts as the handmaid and servant of agriculture. The Treasury documents laid upon our tables show that, of the exports to the West Indies in 1826, amounting to \$16,766,262, about four-fifths (\$13,829,848) were of American produce. Here is a market, then, which receives a greater amount of our grains than all the world besides; and this market is to be destroyed to promote the manufacture of whiskey from rye and other grains. Molasses alone, although deemed a small business, yields a revenue of about \$700,000. However great an aversion gentlemen may have to the article, yet the money derived from it, I hope, does not partake of their dislike. I have read, somewhere, that the Emperor Vespasian, on being reproached for deriving revenue from a source really contemptible, commanded some of the money thus derived to be brought to him, and applying it to his nose, told his courtiers that it really did not smell of the article—so I hope, that as the revenue from molasses does not taste of that article, gentlemen will be reconciled, and permit the trade to exist. If the proposition, advocated by the honorable gentleman from Pennsylvania, should succeed, and this trade should be destroyed by it, as we believe it will be, will that gentleman promise this House that the whiskey substituted shall pay an equal tax to the nation? Will he promise for his constituents? I presume not, sir. Whiskey does not submit to taxation so meekly as molasses. The gentleman has said that the citizens of Pennsylvania not being so fond of molasses as our Eastern brethren, use brown sugar in its place, and that a gallon of molasses contains as much saccharine or sweetening matter as eight pounds of brown sugar, which

pays a duty of 8 cents per pound, amounting to twenty-four cents, and therefore, it would not be unfair that molasses should pay 24 cents, as those who use it derive as much benefit from it as his constituents do from eight pounds of sugar. Sir, this is a strange argument. I always thought that molasses was used as a sweetening not so much from choice as from necessity—not because it was preferred to sugar, but because it was cheaper. If the gentleman's constituents are all so well off as to use sugar, where my constituents, and those of the gentleman from Maine, are compelled to use molasses, it surely is a strong argument against our constituents being taxed for the benefit of those of the gentleman from Pennsylvania.

Mr. Chairman, there is a view of this case, derived from the history of the Madeira trade,\* which gives us the benefit of experience, which, in questions of this kind, is certainly entitled to great consideration. This trade has been operated upon by the tariff system for the benefit of the grain-growing States, and let us attentively examine the results. They are such, sir, as to make the agricultural class deprecate the notion of creating an artificial market for their produce, by destroying a natural one.

By a report of the Committee on Commerce, it appears that with the island of Madeira we once had also a valuable barter trade. We exported flour, Indian corn, peas, beans, pork, lumber, staves, fish, &c.; and, as we are informed by the report of the committee, we have always been permitted to carry these articles there free from duty. The average annual value of our exports to that island, from 1801 to 1807, was about \$600,000. The duty on Madeira wine was then from 50 to 58 cts. per gallon. From 1819 to 1825, the duty has averaged 100 cts. per gallon, and our exports have averaged little more than \$200,000; at present, I believe, they but little exceed \$100,000. If experience of this kind does not convince us of the impolicy and futility of the tariff, or forcing system, in "creating a demand" for agricultural products, I would respectfully ask what can? I would respectfully suggest to the committee, sir, that there seems to me to be great inconsistency as well as impolicy in permitting Great Britain, by closing her West India ports against us and keeping open those of her provinces adjoining us, to become the carriers of our products.

The New Brunswick and Nova Scotia merchants are enabled, under the operation of the present system, to assort their cargoes for the West Indies with our produce, which is a great advantage in that trade, and is precisely the state of things beneficial to them, and detrimental to us. It is for what they have been peti-

* Exports to Madeira 1809	\$2,400,815
" " " 1810	1,688,000
Average annual exports from 1801 to 1816 near	\$700,000
Exports in 1827	106,018
See Doc. H. R. no. 166	

tioning the mother country for the last fifteen years. They have now the long voyage to the West Indies, and the Eastern States a miserable little coasting trade with their ports. Their fisheries, I understand, sir, have received a new impulse from this extension of their trade, as they are enabled to ship their fish to the West India islands, advantageously, with an assorted cargo; whereas an entire cargo of fish would rarely be a profitable shipment. By reference to the Treasury documents, it will be perceived that, in 1826, our exports to the British American colonies were in value \$2,623,225; and this, sir, I presume, does not include a vast amount that finds its way into the Canadas by interior routes by land and water. The imports upon which alone duties can be levied, amounted only to \$677,759; while the whole of our exports to the West Indies are exchanged for articles paying a heavy duty.

I have endeavored, Mr. Chairman, to take a summary view of our West India trade; all must agree that it is highly valuable to the nation. I have endeavored to show this House, by a simple statement of facts, the nature of the North Carolina commerce with the West Indies, its operations, and the onerous incumbrances under which it now labors. I felt under a high obligation, sir, to make this endeavor to discharge my duty, not only to my constituents, but to the nation. I will not longer, sir, consume the time of the committee. I know, sir, that the subject has not received such an examination from me as it merited; but I feel a satisfaction in having attempted to perform what I conceived to be my duty to my constituents.

Mr. CARSON rose and said, that he deeply regretted that his honorable colleague and friend (Mr. BRYAN) should have made it necessary for him to trouble the committee with a few remarks in explanation of the vote he should give on the proposed amendment.

His colleague had said by way of argument in favor of the proposed amendment, "that North Carolina would be more injured by an increased duty upon the items now proposed to be stricken out, than by any other items in the bill." If this were true, sir, it would be the imperative duty of every member from that State to vote for the amendment. But my colleague should have confined his remarks to the district which he represents, and permitted those representing other parts of the State, to think and act with respect to the interests of their constituents, as to them might seem most advisable. Sir, I shall decidedly vote against striking out the proposed items, and for reasons which, with me, are equally forcible with those which operate upon my colleague; but I give this vote with a perfect understanding, that upon the final question, I vote against the whole bill, it being immaterial what shape it may be presented in.

But, sir, if we are compelled to swallow this

bitter dose, I wish to make it as palatable as possible, and by way of sweetening will vote to retain molasses. And further, sir, in the general dispensation of benefits which is proposed, and held out, by the friends of this bill on the "American System," as it is called, the interests of all parts of the Union, and every class of the community, ought to be looked to, and equal justice done to all. Now, sir, I ask my colleague what other items are there in the bill from which North Carolina can expect any benefits, except those proposed to be stricken out, and perhaps one other, that of iron? My colleague is no doubt correct as regards the seaboard of North Carolina, and the particular section which he represents; but with the western end of North Carolina it is very different; we have none of the advantages of commerce, and consequently none of the benefits resulting from this lumber and molasses trade; but we have in many parts of North Carolina, a climate and soil well adapted to the culture of hemp, and if other articles and branches of industry are to be protected, an adequate protection on hemp would certainly benefit those who might think proper to turn their attention to the growing of that article. [Here Mr. BRYAN explained, and said, his colleague was mistaken as regards hemp; he had not intended making any argument upon that subject: he had intended confining his remarks to the single item of molasses. He begged leave to assure his colleague, that he was opposed *in toto* to the tariff on principle.]

Mr. C. resumed, and said, he had understood his colleague as having spoken generally in favor of the amendment of the gentleman from Maine, which was to strike from the bill both hemp and molasses, and he had thought that hemp was necessarily included. He was gratified, however, to learn, that the argument was intended to be confined to molasses. But my argument, Mr. Chairman, is equally applicable to that article, and equally strong. It is of more importance to the grain growers of North Carolina, (and they form a large majority of the population of the State,) that this item should be retained in the bill, than perhaps any other, and the reasons are briefly these: molasses are imported in vast quantities from the West Indies, and is the material from which is distilled a noxious spirit commonly called in North Carolina "Yankee rum." No one knows better than my colleague, that the whole seaboard of our State is inundated with this poisonous stuff, nor is it confined to the seaboard only, for it is thrown in vast quantities all over the southern country, and has found its way into as many parts as has their wooden clocks, and wooden nutmegs. Now, sir, if this duty is imposed upon molasses, it will have the effect to stop in a degree the distillation of Yankee rum, and in the same ratio that the quantity of rum is diminished, so will the demand for domestic spirits (whiskey, &c.) be increased; and, in this are the only advantages to be calculated

Aran, 1836.]

Retrenchment.

[H. OF R.]

on by the farming community of North Carolina. It appears, sir, from calculation, or rather estimates which have been made, that there are about eight millions of gallons of rum annually distilled from imported molasses. Now, sir, if this distillation of foreign material was stopped, there would be an increased demand for the spirits distilled from domestic materials, to a corresponding amount of gallons; and if any benefits are to result from this "American System," (as it has been christened,) I can see none to the grain grower, except those which may result from such an increased duty upon molasses as will prevent the distillation of Yankee rum, thereby affording a most extensive market for whiskey.

My colleague has asked, sir, but asked it rather in a vein of humor, for really I cannot think him serious, "Whether we should sit here legislating for the protection of a noxious liquor, which tends to degradation?" meaning whiskey. Now, Mr. Chairman, I appeal to the candid decision of my colleague, which is the most noxious, poisonous, and degrading in its nature, good rye whiskey or mean Yankee rum? I will not do my colleague the injustice to say, sir, that he is in favor of the protecting or American system; but if he should be, what is there that demands, in a more eminent degree, his protecting care, than the health of his constituents? Nothing, sir. And to that end I call upon him in sober seriousness to banish Yankee rum, and substitute good whiskey.

FRIDAY, April 4.

Retrenchment.

Mr. HAMILTON, from the Select Committee on Retrenchment in the expenses of the Government, reported the following resolution:

*Resolved*, That the Select Committee on the subject of retrenchment be empowered to send for persons and papers, for the purpose of continuing and completing the examination.

Mr. STORRS said, that he was opposed to the resolution just offered by the Chairman of the Select Committee, (Mr. HAMILTON.) He had never been one of those who had denied the constitutional power of the House to authorize a Standing Committee to send for persons and papers. He did not object to it on that ground. It might be not only proper, but sometimes indispensably necessary, to delegate this high power to a committee of this House. Nor was his objection to any want of confidence in the members of the committee. He supposed, as he was bound to do, that our Select, as well as Standing Committees, would always execute the trust reposed in them honestly and fairly. But his objection was to the general, unlimited grant of this power, either to this or to any other committee, or, indeed, to any select body of men. It is a high trust—a great power. It is confided to this House; and as it acts, when

exercised, and can act only, upon the personal liberty and private confidence of the citizens, and upon every citizen, from one extreme of the country to the other, he was decidedly against giving it to any body of men, to be exercised at their will, and upon whom they please. He said, his opinion had been, and still was, that this power to send for persons and papers should never be granted, unless the objects of it were specified. The witnesses and documents wanted ought to be named. This can always be done with sufficient certainty. The exercise of this enormous power will thus be limited and safe. It will then be always under the control of the House. If the honorable mover of the resolution will name the witnesses and papers, and state that they are necessary to the proper investigation of the matter in hand, he shall have my support.

Mr. STORRS said, that, generally, he had no objection to vesting the power of sending for persons and papers in a committee of the House, when they asked it, if any good reasons could be offered by them for such a course. But it was a high power, and to be exercised under a sound discretion—not on every trifling occasion, and by no means as a matter of course. He could not consent to vote for it, unless some reasons were offered in favor of it. None had been given, and he asked the chairman of the committee to inform the House for what purpose the committee asked this power—to what subjects it was to be applied—and to show that it was necessary to the discharge of their duties. If the House was satisfied on these points, he thought no one would refuse to grant them the power; but he trusted that they would not vote for it merely because it was asked.

Mr. HAMILTON said, in reply, that the committee had been particularly charged to examine into the number of clerks in the several Departments, and the necessity of retaining them. In the discharge of this duty, the committee were of opinion, that it would be, on all accounts, most proper to go into an oral examination, which could only be done, by requiring the attendance of the clerks. Another object, to which their inquiries were to be directed, was the contingent expenses of the Departments. On this, also, the committee thought it material to require a verbal explanation of the various items, and that the examination should be conducted under oath. If the power requested should be refused by the House, all the time of the committee would be consumed in running backwards and forwards to and from the Departments. They considered it much more expedient to devote such time as could be given to the duties of their appointment, to stated sittings, at which the presence of the clerks, and other persons to be examined, should, from time to time, be required.

The resolution was carried without a count.

TUESDAY, April 8.

*Tariff Bill.*

The House resumed the consideration of the Tariff Bill.

Mr. MALLARY moved the amendment he had before offered, in Committee of the Whole, with the alteration of inserting the words "carpets, and carpeting," after the word "blankets." Mr. MALLARY supported the amendment at some length.

Mr. KREMER delivered a short speech in opposition to the amendment, but in favor of a moderate system of protection.

Cries for the question were now loud in all parts of the House, when

The amendment of Mr. MALLARY was rejected, by—yeas 80, nays 115.

YEAS.—Messrs. Allen of Mass., Anderson of Pa., Bailey, Baldwin, Barber of Conn., Barker, Barnard, Barney, Bartlett, Bartley, Bates of Mass., Beecher, Blake, Brown, Buckner, Buck, Burges, Butman, Chase, Clark of Ky., Condict, Creighton, Crown-inshield, Davenport of Ohio, Davis of Mass., Dickerson, Dorsey, Dwight, Everett, Garnsey, Gorham, Healy, Hodges, Hunt, Ingersoll, Jennings, Johns, Lawrence, Leffler, Letcher, Little, Locke, Mallary, Markell, Martindale, Marvin, McLean, Merwin, Miner, O'Brien, Pearce, Phelps, Pierson, Plant, Reed, Richardson, Russell, Sloane, Smith of Ind., Sprague, Stewart, Strong, Storrs, Swann, Taylor, Thompson of New Jersey, Tracy, Tucker of New Jersey, Vance, Varnum, Vinton, Wales, Ward, Whipple, Whittlesey, Wilson of Pa., Silas Wood, Woods of Ohio, Woodcock, Wright of Ohio—80.

NAVS.—Messrs. Addams, Alexander, Allen of Va., Anderson of Maine, Archer, Armstrong, John S. Barbour, Philip P. Barbour, Barlow, Barringer, Bates of Missouri, Belden, Bell, Blair, Brent, Bryan, Buchanan, Bunner, Cambreleng, Carson, Carter, Chilton, Claiborne, Clark of New York, Conner, Coulter, Crockett, Culpeper, Daniel, Davenport of Virginia, Davis of South Carolina, De Graff, Desha, Drayton, Duncan, Earle, Findlay, Floyd of Virginia, Floyd of Georgia, Fort, Forward, Fry, Garrow, Gilmer, Green, Gurley, Halle, Hallock, Hall, Hamilton, Harvey, Haynes, Hobbie, Hoffman, Holmes, Isaacks, Keese, King, Kremer, Lecompte, Lea, Livingston, Long, Lumpkin, Lyon, Magee, Marable, Martin, Maxwell, McCoy, McDuffie, McHatton, McIntire, McKean, McKee, Mercer, Metcalfe, Mitchell of Pa., Mitchell of Tennessee, Moore of Kentucky, Moore of Alabama, Newton, Nuckolls, Oakley, Orr, Owen, Polk, Ramsey, Ripley, Rives, Roane, Shepperd, Smyth of Virginia, Sprigg, Stanberry, Stevenson of Pa., Sterigere, Stower, Sutherland, Thompson of Ga., Trezvant, Tucker of South Carolina, Turner, Van Horn, Verplanck, Washington, Weems, Wickliffe, Williams, John J. Wood, Wolf, Wright of New York, Yancey—115.

Mr. STEVENSON, of Pennsylvania, now moved to amend the bill; but before any decision was had on his motion,

The House adjourned.

TUESDAY, April 15.

*The Tariff Bill.*

The question recurring on the amendment

proposed by Mr. GORHAM, to except ravens duck from the operation of the proposed duty on sail duck, it was negatived by—yeas 80, nays 123.

Mr. SPRAGUE moved to strike out the proposed duty of ten cents on molasses, and observed, that he should not enter into any discussion of the subject, especially after the remarks which he had heard yesterday; for, as several gentlemen had said that they would retain this, and other items of the bill, which they considered as noxious in themselves, for the express purpose of destroying the bill, any argument that he might use, for the purpose of showing that the item was a bad one, would only operate with them to prevent its rejection.

Mr. RAMSEY suggested a doubt, whether this clause should be stricken out, the existing duty would not thereby be abolished, also; and so molasses become free of all duty whatever.

Mr. MEROSE should vote to strike out the present duty from the bill. He believed the country was abundantly capable of supplying its own sugar and molasses, but was opposed to interfering, by legislation, to hasten that supply.

Mr. BURGESS warmly supported the motion of Mr. SPRAGUE. He thought the duty calculated to operate as much against the Middle as the Eastern States, and believed that it would injure the sugar-growing parts of the country, by giving a premature excitement to the production of our own molasses. He thought it was a policy of indirection, going to ruin the trade of the Eastern States to fulfil a paltry promise to the manufacturers of whiskey.

Mr. SUTHERLAND replied to Mr. BURGESS, and opposed the motion to strike out. He was in favor of carrying the American System fully out, and let it operate alike on all parts of the country. The Harrisburg Convention themselves had recommended that the distillation of spirits from foreign materials should be discouraged. The southern country could furnish molasses enough for the supply of the whole Union.

Mr. S. read a quotation from the minutes of the Harrisburg Convention.

Mr. MALLARY remarked, that he should have been very happy if the gentleman had shown an equal anxiety to comply with other recommendations of that convention.

Mr. CONDUCT moved to amend the bill in relation to the duty on molasses, by striking out "ten," and inserting "seven and a half cents;" which he did by way of making the clause as perfect as possible, before the motion to strike it out should be entertained.

Mr. WICKLIFFE resumed his remarks, referred to the speech of Mr. Clay, in 1824, on the molasses duty, and explained how the item came to be thrown out from the tariff bill of that year. He then adverted to the operation of the present law, and contended that, by mixing four gallons of whiskey with one gallon of molasses, and thus producing five gallons of New England rum, the exporter of that article, pay-

April, 1828.]

Tariff Bill.

[H. OF R.]

ing five cents duty on his molasses, and receiving twenty cents drawback on his rum, made a clear gain of fifteen cents on the five gallons.

Mr. WRIGHT, of N. Y., said he particularly addressed himself to gentlemen situated as he was in relation to this bill. Since the bill had been before the House, the duty upon foreign spirits had been increased from 10 cents per gallon, the increase proposed by the Committee on Manufactures, to 15 cents per gallon, in addition to the present duty. He asked whether any member of the House lived in a district of country where foreign spirits are not used? So far as his knowledge extended, such could not be the fact. Will gentlemen then consent to add 15 cents per gallon to the duty upon foreign spirits, and but 2 cents to a gallon of New England rum? The effect of such a step could only be to give a bounty upon the manufacture of rum from molasses. For what is this bounty to be given? The molasses are imported. Put them in the shape of ardent spirits, and the spirits thus obtained interfere directly with the market for the whiskey made from the grain of the country. All the whiskey the country can make, and market, furnishes a market for just so much of the grain of our farmers, which now will not sell, and must remain upon their hands. This is the only view of the subject I will present.

I voted against the duty of 15 cents upon the foreign spirits. I did think it too high in proportion to the duty of 5 cents proposed upon molasses of which the rum is made. I now appeal to those gentlemen who voted for the 15 cents increase upon foreign spirits; to the gentleman from Maine, (Mr. SPRAGUE,) who made the motion to strike out the whole duty upon molasses, while he, at the same time, voted to increase the duty 15 cents upon the foreign spirits made of the same material, will they, instead of prohibiting, give a bounty upon the making of rum from foreign molasses? Have they no feelings, no regard for those who use the foreign spirits? Will they compel them to use the New England, instead of the West India rum? That shall not be my course. If our own spirits cannot have the market, if the foreign molasses or the foreign rum must be imported to conflict with the sale of our whiskey, I am willing the consumer should take his election which he will bring into the country. I will not consent to prohibit the one by an extravagant duty, and leave the other without any, or with a nominal increase.

Mr. CONDIOT observed in reply, that he was one of those who had voted to increase the duty on imported rum; he had done so on principle, and was always ready to vote to increase such a duty. He would vote for an excise on domestic spirits, and did not consider that this was at all inconsistent with reducing the duty on molasses, eight millions of gallons of which was used for food, to three millions which was distilled.

Mr. MARTINDALE replied to his colleague,

(Mr. WRIGHT,) and wished to know how this duty would reach the western farmers, but through the western distillers. No possible protection could bring the whiskey of the Western States to compete in New England with the rum distilled there, because New England had nothing to give to the West for whiskey, but could exchange all her products for molasses in the West Indies.

Mr. MITCHELL, of S. Carolina, said: he should vote for retaining the duty on molasses, because he believed that keeping it in the bill would get votes against the final passage of the bill; and if the bill must pass, he wished the poor to be made to feel its oppressive operation, that a stronger interest might be created in the country against the Tariff System.

Mr. WRIGHT, of Ohio, said: Sir, I am in favor of the amendment of the gentleman from New Jersey, (Mr. CONDIOT;) it is similar nearly to one I had prepared, and was about to offer. I would not strike molasses from the bill; it is an article that I think will bear an increased duty, and so far as it is brought into the country for distillation, a duty equal to that proposed in the bill, or even higher. The article is one of great bulk for its value, inconvenient to handle, and hazardous to keep; one chargeable with high freight on its transportation. These things operate of themselves to protect the production of it in this country to a considerable extent. Beyond this, the duty imposed on its importation by the existing law is equal to 50 or 75 per cent. of its value, at the place whence imported. If I am correct, the duty of 10 cents the gallon proposed by the bill, would be from 100 to 125 per cent. This is a duty altogether disproportioned to the other propositions in the bill. Much the greatest moiety of this article enters into the consumption of the middling classes and poor families, for food and common culinary purposes—it is wholesome, and nutritious—its consumption in that way should be encouraged. Why then is it proposed to levy a duty on this article higher than any other article in the bill? I will not impute improper motives to any one, but I may advert to what has passed here before our eyes. The gentleman from New York, (Mr. CAMBRELENG,) who has been a consistent and warm opponent of all tariffs, says that the tariff law of 1824 would never have passed if molasses had not been stricken out. I recollect well the time alluded to, and then believed as I do now, that but for the reason given by the gentleman, the act of 1824 never would have passed. I voted then to strike out molasses, because I was then as now friendly to affording protection to American industry and then as now opposed to the gentleman from New York; and because I was not willing to sacrifice a great measure merely to gratify a desire to retain an article in the bill for experiment's sake, however much the project might be the favorite of a friend, whose opinion I respected. The vote that struck this article



from the bill of 1824, I have never heard censured in any part of the country. I am now, as I was in 1824, friendly to the system of protection—I feel anxious to pass an efficient act, one that will revive the desponding and depressed interests of the country. It is notorious that the item imposing a high duty on molasses, bearing as it does almost exclusively on one section of the country, jeopardizes the passage of the bill now as it did in 1824—the tax on this article has not been prayed for by any portion of the country. I will not say it was introduced into the bill, at the rate of duty affixed to it, with the design to defeat the bill, but I do think its tendency is to defeat it: and the gentleman from New York, (Mr. CAMBRELENG,) whose hostility to the system no one will question, says he will vote to retain this burthensome duty, as a means of defeating the bill; or, if it fail to produce that effect, in the hope that by its severe operation upon the poor, it will be so sensibly felt, and be so generally deprecated, as to produce discontent and alarm, and make converts to his anti-tariff doctrines. The same sentiments have been avowed by the gentlemen, from South Carolina, (Mr. MITCHELL,) from Georgia, (Mr. GILMER,) from Maryland, (Mr. WEEKS,) and others. These gentlemen are all known to be bitter enemies late of the tariff. They openly and frankly avow their determination to vote for this duty, and for the highest rate of duty on articles of common use, to raise the price, oppress the consumer, to make the system odious, and eventually to destroy all protection. Now, sir, can I, who have always been a friend to the system, with the declarations made in open day, thinking now as I did in 1824, that the retention of this high and onerous duty endangers the system, can I, desirous as I am that some bill, if it afford but slight increase of protection to the great, suffering, and crying interests of the country, should pass to save them from total prostration of ruin, fall in with our adversaries, unite with our open and avowed enemies, aid to advance their plan of operations, to retain in the bill an item they think and intend shall defeat and destroy the measure altogether?

Mr. Woodcock replied to Mr. WRIGHT, of New York, and explained the reason why he had voted for an increased duty on foreign spirits, referred to the testimony on the subject of whiskey, and remonstrated against taxing an article of such general and important use as molasses, to encourage Western distillation.

Mr. BUCHANAN professed to be a decided friend to the policy of protecting domestic industry, but his attachment to the bill would be greatly diminished if the duty on molasses should be stricken out. He contended that every three gallons of molasses, imported into this country, to be manufactured into New England rum, took the place of one bushel of corn or rye; and that, for each cent per gallon, which was added to the price of whiskey, the

distillers in his district could, and did give an additional price, of between two and three cents per bushel for grain. He had voted to strike out the duty on molasses in 1824, to save the tariff bill, but should not do so again.

Mr. LIVINGSTON said, that the debate had hitherto been conducted, as if only two interests in the country were concerned in this duty on molasses—the navigating and the grain growing interest. They both seemed to forget that there was a third party, which consisted of those who produced domestic molasses. This duty, if laid, would operate to protect not only the growers of grain, but the growers of sugar. There was, in the State of Louisiana, land capable of producing enough sugar and molasses to supply the whole consumption of the United States. There were upwards of a million of acres, each of which would produce sixty gallons of molasses. The eastern traders could as well take their molasses from New Orleans, as from the West Indies, and might give the same articles in exchange for it. He was opposed to the principle of the bill, but believing that it would pass, he wished his constituents to have some share in the benefit, if any was to grow out of it.

Mr. SPRAGUE spoke in reply to Mr. WICKLIFFE, and denied that there was any proof, either that four gallons of whiskey were mixed with one gallon of molasses, or that rum, thus produced, was, by fraud and perjury, exported for the benefit of drawback. Such charges should not be made without evidence.

Mr. WOODS, of Ohio, said, he should not controvert the statement of Mr. WICKLIFFE, but, if it was a fact, that every gallon of molasses was a sponge to drink up four gallons of whiskey, the people of his district would be very glad to hear of it, and the importation of molasses ought certainly to be encouraged. With such a premium, the people of New England could well afford to buy up and re-distil the whiskey of the West, or, if not, the people of the West could afford to do it for themselves.

Mr. WICKLIFFE, after recommending to Mr. WOODS to sue out a patent for his mode of calculation, replied to Mr. SPRAGUE, denied his own knowledge as to the proportion in which whiskey was mixed with molasses, or as to its exportation for benefit of drawback, but quoted a passage from the minutes of the Harrisburg Convention, respecting certain exports from Baltimore. He repelled the insinuations which had been thrown out as to the motives of those who refused to go the whole length to which some friends of the tariff system were disposed to carry it.

Mr. SPRAGUE replied, repeated his demand for proof as to fraud and perjury, explained the quotation which Mr. WICKLIFFE had made, that gentleman having supposed that whiskey, New England rum, apple brandy, and peach brandy, were all mixed in one cask, because they were all mentioned in one sentence.

After some explanation between Messrs. For-

APRIL, 1828.]

Tariff Bill.

[H. OF R.]

WARD and SPRAGUE, as to the mixture of whiskey and molasses, and another explanation by Mr. LONE, as to the motives of his vote in 1824, the question was put on Mr. CONDUCT's amendment, (to strike out ten and insert seven,) and decided in the negative, by—yeas 98, noes 104.

The question was then put on Mr. SPRAGUE's amendment, (to strike out the duty,) which was also decided in the negative, by—yeas 82, noes 114.

Mr. WARD demanded the previous question, and the demand was sustained by the House—yeas 107.

The Speaker, then, by request, stated the effect of the previous question; which would be not to set aside any of the amendments which had been adopted, but to preclude all further amendment and farther debate.

He then put the previous question, in the following words: "Shall the main question now be put?" and it was decided in the affirmative, by—yeas 110, noes 91.

The Speaker then put the main question, in the following words: "Shall this bill be engrossed and read the third time?"

Mr. REED then demanded that the main question be taken by yeas and noes, and they were ordered; they stood as follows:

YEAS.—Messrs. Anderson of Pa., Armstrong, Baldwin, Barber of Conn., Barlow, Barnard, Bartley, Beecher, Belden, Blake, Brown, Buchanan, Buckner, Beck, Bunner, Burges, Chase, Chilton, Clark of New York, Clark of Kentucky, Condict, Coulter, Creighton, Crowninshield, Daniel, Davenport of Ohio, De Graff, Dickinson, Duncan, Dwight, Earl, Findlay, Forward, Fry, Gale, Garney, Garrow, Green, Harvey, Healy, Hobbie, Hoffman, Hunt, Ingham, Jennings, Johns, Keese, King, Kremer, Lawrence, Leecompte, Leffler, Letcher, Little, Lyon, Magee, Mallory, Markell, Martindale, Marvin, Maxwell, McHatton, McKean, McLean, Merwin, Metcalfe, Miller, Miner, Mitchell of Pa., Moore of Kentucky, Orr, Phelps, Pierson, Ramsey, Russell, Sloane, Smith of Indiana, Sprigg, Stanberry, Stevenson of Pa., Sterigere, Stewart, Storrs, Stower, Strong, Swann, Swift, Sutherland, Taylor, Thompson of N. J., Tracy, Tucker of N. J., Vance, Van Horn, Van Rensselaer, Vinton, Wales, Whipple, Whittlesey, Wickliffe, Wilson of Pa., John J. Wood, Silas Wood, Woods of Ohio, Woodcock, Wolf, Wright of New York, Wright of Ohio, Yancey—109.

NAYS.—Messrs. Alexander, Allen of Mass., Allen of Va., Alston, Anderson of Maine, Archer, Bailey, John S. Barbour, P. P. Barbour, Barker, Barney, Barringer, Bartlett, Bates, Bell, Blair, Brent, Bryan, Butman, Cambreleng, Carson, Carter, Claiborne, Conner, Crockett, Culpeper, Davenport of Virginia, Davis of Mass., Davis of South Carolina, Desha, Dorsey, Drayton, Everett, Floyd of Va., Floyd of Geo., Fort, Gilmer, Gorham, Gurley, Haile, Hallock, Hall, Hamilton, Haynes, Hodges, Holmes, Ingersoll, Incks, Lea, Livingston, Locke, Long, Lumpkin, Masable, Martin, McDuffie, McIntire, McKee, Mercer, Mitchell of S. C., Mitchell of Tennessee, Moore of Alabama, Newton, Nuckolls, Oakley, O'Brien, Owen, Pearce, Plant, Polk, Randolph, Reed, Richardson, Ripley, Rives, Roane, Shepperd, Smith of Va., Sprague, Taliaferro, Thompson of Georgia,

Trezvant, Tucker of South Carolina, Turner, Var-num, Verplanck, Ward, Washington, Weems, Wilde, Williams, Wingate—91.

So the bill was ordered to be engrossed and read a third time, in the following form:

A BILL in alteration of the several acts imposing duties on Imports.

*Be it enacted, &c.* That, from and after the thirtieth day of June, one thousand eight hundred and twenty-eight, in lieu of the duties now imposed by law on the importation of the articles hereinafter mentioned, there shall be levied, collected, and paid, the following duties; that is to say:

1st. On iron, in bars or bolts, not manufactured, in whole, or in part, by rolling, one cent per pound.

2d. On bar and bolt iron, made wholly, or in part, by rolling, thirty-seven dollars per ton.

3d. On iron, in pigs, sixty-two and one-half cents per one hundred and twelve pounds.

4th. On iron or steel wire, not exceeding number fourteen, six cents per pound, and over number fourteen, ten cents per pound.

5th. On round iron, or brazier's rods, of three-sixteenths to eight-sixteenths of an inch diameter, inclusive; and on iron in nail or spike rods, slit or rolled; and on iron in sheets, and hoop iron; and on iron slit or rolled for band iron, scroll iron, or casement rods, three and one-half cents per pound.

6th. On axes, adzes, drawing knives, cutting knives, sickles, or reaping hooks, scythes, spades, shovels, squares of iron or steel, bridle bits of all descriptions, steel-yards and scale beams, socket chisels, vices, and screws of iron, for wood, called wood screws, ten per cent. ad valorem, in addition to the present rate of duty.

7th. On steel, one dollar and fifty cents per one hundred and twelve pounds.

Sec. 2. *And be it further enacted,* That, from and after the thirtieth day of June, one thousand eight hundred and twenty-eight, there shall be levied, collected, and paid, on the importation of the articles hereinafter mentioned, the following duties in lieu of those now imposed by law:

1st. On wool unmanufactured, 4 cents per pound; and also in addition thereto, 40 per cent. ad valorem, until the 30th day of June, 1829, from which time, an additional ad valorem duty of five per cent. shall be imposed annually, until the whole of said ad valorem duty shall amount to fifty per cent. And all wool, imported on the skin, shall be estimated as to weight and value, and shall pay the same rate of duties as other imported wool.

2d. On manufactures of wool, or of which wool shall be a component part, (except carpetings, blankets, worsted stuff goods, bombazines, hosiery, mita, gloves, caps, and bindings,) the actual value of which, at the place whence imported, shall not exceed fifty cents the square yard, there shall be levied, collected, and paid, 20 cents on every square yard: Provided, That on all manufactures of wool, except flannels and baizes, the actual value of which, at the place whence imported, shall not exceed 83 1-3 cents per square yard, shall pay fourteen cents per square yard.

3d. On all manufactures of wool, or of which wool shall be a component part (except as aforesaid) the actual value of which, at the place whence imported, shall exceed fifty cents the square yard, and shall not exceed one dollar the square yard, there shall be

levied, collected, and paid, a duty of 40 cents on every square yard.

4th. On all manufactures of wool, or of which wool shall be a component part, except as aforesaid, the actual value of which, at the place whence imported, shall exceed one dollar the square yard, and shall not exceed two dollars and fifty cents the square yard, there shall be levied, collected, and paid, a duty of one dollar on every square yard.

5th. All manufactures of wool, or of which wool shall be a component part, except as aforesaid, the actual value of which, at the place whence imported, shall exceed two dollars and fifty cents the square yard, and shall not exceed four dollars the square yard, shall be deemed to have cost at the place whence imported, four dollars the square yard, and a duty of forty per cent. ad valorem shall be levied, collected, and paid, on such valuation.

6th. On all manufactures of wool, or of which wool shall be a component part, except as aforesaid, the actual value of which at the place whence imported, shall exceed four dollars the square yard, there shall be levied, collected, and paid, a duty of forty-five per cent. ad valorem.

7th. On woollen blankets, hosiery, mits, gloves, and bindings, thirty-five per cent. ad valorem.

8th. On Brussels, Turkey, and Wilton carpets and carpeting, seventy cents per square yard. On all Venetian and ingrain carpets and carpetings, forty cents per square yard. On all other kinds of carpets and carpetings, of wool, flax, hemp, or cotton, or parts of either, thirty-two cents per square yard. On all patent floor-cloths, fifty cents per square yard. On oil cloth, other than that usually denominated patent floor-cloth, twenty-five cents per square yard. On furniture oil cloth, fifteen cents per square yard. On floor matting, made of flags or other materials, fifteen cents per square yard.

Sec. 3. *And be it further enacted*, That, from and after the thirtieth day of June, one thousand eight hundred and twenty-eight, there be levied, collected, and paid, on the importation of the following articles, in lieu of the duty now imposed by law:

1st. On unmanufactured hemp, forty-five dollars per ton, until the thirtieth day of June, one thousand eight hundred and twenty-nine; from which time, five dollars per ton in addition per annum, until the duty shall amount to sixty dollars per ton. On cotton bagging four and a half cents per square yard, until the thirtieth day of June, one thousand eight hundred and twenty nine, and afterwards a duty of five cents per square yard.

2d. On unmanufactured flax, thirty-five dollars per ton, until the thirtieth day of June, one thousand eight hundred and twenty-nine, from which time an additional duty of five dollars per ton, per annum, until the duty shall amount to sixty dollars per ton.

3d. On sail duck, nine cents the square yard.

4th. On molasses, ten cents per gallon.

5th. On all imported distilled spirits, fifteen cents per gallon, in addition to the duty now imposed by law.

Sec. 4. *And be it further enacted*, That, from and after the thirtieth day of June, one thousand eight hundred and twenty-eight, no drawback of duty shall be allowed on the exportation of any spirit, distilled in the United States, from molasses; no drawback shall be allowed on any quantity of sail-duck, less than fifty bolts, exported in one ship or vessel, at any one time. And in all cases of draw-

back of duties claimed on cordage manufactured from foreign hemp, the amount of drawback shall be computed by the quantity of hemp used, and excluding the weight of tar, and all other materials used in manufacturing the cordage.

Sec. 5. *And be it further enacted*, That, from and after the thirtieth day of June, one thousand eight hundred and twenty-eight, there shall be levied, collected, and paid, in lieu of the duties now imposed by law, on window glass, of the sizes above ten inches by fifteen inches, five dollars for one hundred square feet: Provided, that all window glass imported in plates, or sheets uncut, shall be chargeable with the same rate of duty. On vials and bottles, not exceeding the capacity of six ounces each, one dollar and seventy-five cents per gross.

Sec. 6. *And be it further enacted*, That, from and after the thirtieth day of June, one thousand eight hundred and twenty-eight, there shall be levied, collected, and paid, in lieu of the duties now imposed by law, on all imported roofing slates not exceeding twelve inches in length, by six inches in width, four dollars per ton; on all such slates, exceeding twelve, and not exceeding fourteen inches in length, five dollars per ton; on all slates exceeding fourteen inches, and not exceeding sixteen inches in length, six dollars per ton; on all slates exceeding sixteen inches, and not exceeding eighteen inches, seven dollars per ton; on all slates exceeding eighteen and not exceeding twenty inches in length, eight dollars per ton; on slates exceeding twenty, and not exceeding twenty-four inches, nine dollars per ton; and on all slates exceeding twenty-four inches, ten dollars per ton. And that, in lieu of the present duties, there be levied, collected, and paid, a duty of thirty-three and a third per centum, ad valorem, on all imported cyphering slates.

Sec. 7. *And be it further enacted*, That all cotton cloths whatsoever, or cloths of which cotton shall be a component material, excepting nankeens imported direct from China, the original cost of which at the place whence imported, with the addition of twenty per cent. if imported from the Cape of Good Hope, or from any place beyond it, and of ten per cent. if imported from any other place, shall be less than thirty-five cents the square yard, shall, with such addition, be taken and deemed to have cost thirty-five cents the square yard, and charged with duty accordingly.

Sec. 8. *And be it further enacted*, That, in all cases where the duty which now is, or hereafter may be imposed, on any goods, wares, or merchandises, imported into the United States, shall, by law, be regulated by, or be directed to be estimated or levied upon the value of the square yard, or of any other quantity or parcel thereof; and in all cases where there is or shall be imposed any ad valorem rate of duty on any goods, wares, or merchandises, imported into the United States, it shall be the duty of the Collector within whose district the same shall be imported or entered, to cause the actual value thereof, at the time and place from which the same shall have been imported into the United States, to be appraised, estimated, and ascertained, and the number of yards, parcels, or quantities, and such actual value of every of them, as the case may require: and it shall, in every such case, be the duty of the appraisers of the United States, and of every of them, and of every other person who shall act as such appraiser, by all the reasonable ways and means in his or their power, to ascertain, estimate, and ap-

APRIL, 1828.]

Tariff Bill.

[H. OF R.]

praise the true and actual value, any invoice, or affidavit thereto, to the contrary notwithstanding, of the said goods, wares, and merchandise, at the time and place from whence the same shall have been imported into the United States, and the number of such yards, parcels, or quantities, and such actual value of every of them, as the case may require; and all such goods, wares, or merchandises, being manufactures of wool, or whereof wool shall be a component part, which shall be imported into the United States in an unfinished condition, shall, in every such appraisal, be taken, deemed, and estimated, by the said appraisers, and every of them, and every person who shall act as such appraiser, to have been, at the time and place from whence the same were imported into the United States, of as great value, as if the same had been entirely finished. And to the value of the said goods, wares, and merchandise, so ascertained, there shall, in all cases where the same are or shall be charged with an ad valorem duty, be added all charges except insurance, and also twenty per centum on the said actual value and charges, if imported from the Cape of Good Hope, or any place beyond the same, or from beyond Cape Horn; or ten per centum if from any other place or country; and the said ad valorem rates of duty shall be estimated on such aggregate amount; any thing in any act to the contrary notwithstanding: Provided, That, in all cases where any goods, wares, or merchandise, subject to ad valorem duty, or whereon the duty is or shall be by law regulated by, or be directed to be estimated or levied upon, the value of the square yard, or any other quantity or parcel thereof, shall have been imported into the United States from a country other than that in which the same were manufactured or produced, the appraisers shall value the same at the current value thereof, at the time of such last exportation to the United States, in the country where the same may have been originally manufactured or produced.

Sec. 9. *And be it further enacted*, That, in all cases where the actual value to be appraised, estimated, and ascertained, as hereinbefore stated, of any goods, wares, or merchandise imported into the United States, and subject to any ad valorem duty, or whereon the duty is regulated by, or directed to be imposed or levied on, the value of the square yard, or other parcel or quantity thereof, shall, by ten per centum, exceed the invoice value thereof, in addition to the duty imposed by law on the same, if they had been invoiced at their real value, as aforesaid, there shall be levied and collected on the same goods, wares, and merchandise, fifty per centum of the duty so imposed on the same goods, wares, and merchandise, when fairly invoiced: Provided, always, That nothing in this section contained, shall be construed to impose the said last-mentioned duty of fifty per centum, for a variance between the bona fide invoice of goods produced in the manner specified in the proviso to the seventh section of this act, and the current value of the said merchandise in the country where the same may have been originally manufactured or produced: And, further, That the penalty of fifty per centum, imposed by the thirteenth section of the act, entitled "An act supplementary to, and to amend, the act, entitled 'An act to regulate the collection of duties on imports and tonnage, passed the second day of March, one thousand seven hundred and ninety-nine, and for other purposes,'" approved March first,

one thousand eight hundred and twenty-three, shall not be deemed to apply or attach to any goods, wares, or merchandise, which shall be subject to the additional duty of fifty per centum, as aforesaid, imposed by this section of this act.

Sec. 10. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury, under the direction of the President of the United States, from time to time, to establish such rules and regulations, not inconsistent with the laws of the United States, as the President of the United States shall think proper, to secure a just, faithful, and impartial appraisal of all goods, wares, and merchandise, as aforesaid, imported into the United States, and just and proper entries of such actual value thereof, and of the square yards, parcels, or other quantities thereof, as the case may require, and of such actual value of every of them: and it shall be the duty of the Secretary of the Treasury to report all such rules and regulations, with the reasons therefor, to the then next session of Congress.

WEDNESDAY, April 16.

*The Tariff Bill*

Was then read a third time; and the question being, "Shall this bill pass?"

Mr. RANDOLPH rose, and addressed the House at length in opposition to the bill, and concluded his speech by a motion that it be indefinitely postponed.

Mr. MITCHELL, of South Carolina, on the same side, concluded a speech of considerable length, by saying, that he should vote in support of the present motion, and, if it did not succeed, should vote against the passage of the bill.

Mr. BATES, of Missouri, said he would take this occasion briefly to offer some of the reasons which would govern his vote upon the present question. He did not pretend to be well versed in the nice calculations and diversified interests involved in this complicated subject; but, from the inception of the bill to the present moment, when it is almost consummated, he had endeavored to conform his votes to what he believed to be the interests and wishes of his constituents. And when he doubted, he had governed himself by the better judgment of those who are well informed of the present state of the agricultural and manufacturing interests of this country, and of the means best adapted to cherish and extend them.

This bill, as reported by the Committee on Manufactures, was met at the very threshold by those who are the ostensible objects of its encouragement and protection. The manufacturers and wool-growers cried aloud against it; and those on this floor who have heretofore been considered the real champions of the protective system, endeavored to rouse it into something like a healthy existence, and to change its nature and operation, by amendments essentially variant from the plan of the committee. Many of those amendments have been rejected, and the bill is still encumbered with most of its original defects, and other su-

peraded evils, introduced by a majority composed of the friends of the original *project* and the avowed enemies of the whole system of protection.

I confess (said Mr. B.) that I have felt some doubt as to the course I ought to take upon this bill. But the time has now come for definite action upon it. All amendment is precluded. I must take it with all its faults or reject it altogether. I shall do the latter. The intrinsic demerits of the bill do, in my judgment, require its rejection; but I have another, and perhaps a stronger reason, arising out of what I consider the harsh and illiberal manner in which this crisis has been forced upon the House. When the bill was reported, no voice of Missouri had reached this hall in the language of petition. There was nothing to indicate the wishes of my constituents, in regard to the general system of protection, or in favor of any particular article, the encouragement of which might advance their interests. But, after the bill was reported, I received and presented petitions numerously signed, praying a modification of the impost on lead, a staple of great and growing importance to Missouri, and the contiguous country. I did not doubt that the bill would receive, in Committee of the whole House, that calm, and deliberate, and courteous consideration which would enable every member to present and obtain a fair hearing for every proposition which he might believe conducive to the good of his constituents. Under this impression, I prepared an amendment to the bill, embracing the objects contemplated by the petitioners, and sought an opportunity for some time to present it; but such was the engrossing interest of other articles, that I was unable to offer it, until the members, weary of the long debate upon wool and woollens, seemed determined that the Committee of the Whole should rise and report the bill to the House, right or wrong, finished or unfinished. Then, for the first time, I found an opportunity to offer my proposition; and you will remember, sir, that mine, and some fifteen or twenty others, were promptly voted down, without inquiry or consideration; with the avowed understanding that they were then received, only that it might be in order for the movers to renew their propositions in the House. And with this view the House ordered all the amendments thus offered, and rejected, to be printed along with the bill. But this is not all: on offering my amendment in Committee of the Whole, I rose for the purpose of making an explanation, which I have no doubt would have insured its adoption. I wished to show that there were important omissions in the act of 1824, which ought to be supplied. I was appealed to by members near me, who urgently solicited me to forego the argument at that time, and suffer the committee to rise and report the bill; assuring me that, in the House, I would have ample opportunity to revive my proposition when there would be more time for

fair inquiry and deliberate investigation. Sir, I am young in this hall, and inexperienced in the routine of business—I yielded to their solicitations; and what is the reward of my courtesy? When I sought an opportunity to renew my proposition in the House, I was muzzled and put down by the tyranny of the previous question. Sir, the previous question was prematurely and inconsiderately called. I undertake to affirm that the bill was not ripe for the final action of the House. A part of it, indeed, had been under discussion for some five or six weeks, but, as a whole, it had not occupied one moment of the attention of the House. The whole time had been consumed upon the single subject of wool and woollen fabrics, with the exception of some few hours devoted to molasses and hemp; the vast variety of other articles comprehended in the bill had been passed over in silence and oblivion. Mr. Speaker, I must be permitted to say, that a very small measure of courtesy was extended to me, as a member of this House, and very little respect was paid to the interests and wishes of my constituents, when I was denied the privilege of offering to your consideration the only subject in favor of which the people of Missouri had prayed the protecting aid of Congress.

But the fifteen or twenty amendments offered in Committee of the Whole, and afterwards stifled in the House by the previous question, do not constitute the only evidence of the immaturity of this bill. There is another irrefragable proof—a matter of fact demonstration, that admits of neither doubt nor cavil. The last hurried act of the Committee of the Whole, in the confusion of a protracted night session, and amidst the irritable impatience produced by the exhaustion of eight hours of continual attention, was the correction of a newly discovered blunder of the Committee on Manufactures. I allude to the amendment, offered by the gentleman from New York, (Mr. WHEAT,) to diminish the duty proposed in the bill upon imported flax. That gentleman was an active member of the Committee on Manufactures, and one of the most zealous supporters of the bill in its original form. He stated in his place that the only design of the amendment was to correct a mistake of the committee in laying a much higher impost upon the article than they intended, notwithstanding the long and elaborate investigation which eventuated in their report of the bill, and the no less long and elaborate arguments by which several members of the committee have sustained it on this floor. When the question was about to be taken, another member of that committee, (Mr. COWDRIE, of New Jersey,) and one of the most intelligent and respectable members of this House, stated that the gentleman from New York was not aware of the full extent of the mistake into which the committee had fallen, and offered an amendment to cover the whole ground of error. But he, too, was silenced by the pre-

APRIL, 1828.]

Tariff Bill.

[H. OF R.]

vious question. No attention was paid to what he said, and he was voted down with the amendment in his hand.

When the question on engrossing the bill was taken yesterday, though I was in my place, I did not vote upon it, partly because I was surprised and mortified at what I conceive to be the reckless precipitation with which the subject was pressed to its conclusion, and partly because a number of amendments had been adopted in rapid succession, of the precise import and bearing of which I was not then sufficiently informed. I am now prepared to vote against the bill, unless it can be made to assume a better form than it wears at present. The only protection asked for by any portion of my people, you have excluded, without even deigning to give them a hearing. A duty on lead would redound to our advantage, but the impost upon every other article is a tax upon us. Nevertheless, for them and for myself I would be willing to make many present sacrifices with the hope of ulterior and contingent advantages arising out of an improved and protected system of manufactures. But the bill, in its present form, pleases nobody. It awakens the jealousy and arouses the passions of a large portion of this country, while it affords no corresponding benefits to those at whose prayer it has been introduced here. The South complain that it will oppress and grind them down, and make them hewers of wood and drawers of water for the spinners and weavers of the North; and the North affirm that it will pull down their factories, desolate their pastures, and, to borrow the emphatic language of my friend from Massachusetts, (Mr. I. C. BATES,) that "it will put the knife to the jugular of every sheep in the country." Sir, I do believe that, aside from the political excitement of the times, aside from the sinister influences and indirect bearings of the subject, this bill, presented in its nakedness, to the cool, unbiassed judgment of the House, to be accepted or rejected as it might advance or retard the real interests of the agricultural and manufacturing classes of this country, would not find in this hall fifty men who would vote for it, on its own intrinsic merits. I may be mistaken in this, but if it is my honest conviction, and I shall act upon it.

A principle has been introduced into the woollen branch of this bill to which I have very serious objections; a principle by which one amount of duty in name, and another and much more exorbitant one in reality, is imposed upon the article. I mean the *minimum* principle, by which a variation of one cent in the price of a square yard of cloth may vary the impost duty upon it one hundred per cent. I object to this, because in such cases, the duty is unreasonable and oppressive; and I object to it for a still stronger reason, because honesty is always the best policy, and so is truth. It can never be good policy to deceive the people by our legislation, or suffer the statute book to hold out false appearances. I and my constit-

nents are not deeply versed in mercantile calculations; and, with these *minimums* in the bill, it is next to impossible that the great mass of us should find out what duty we really pay upon the articles we consume.

I have no constitutional scruples upon this subject: for, if there be any one question, which, above all others, presents to us a consideration purely of interest and policy, it is this very question of the tariff. I am willing to vote a safe and adequate protection, in the form of a direct *ad valorem* duty; a duty which every one can understand, and the amount of which may be ascertained by the simplest process of calculation. If the object be to exclude the foreign article from our market, why say so in plain English, and if it can be produced at home in sufficient abundance, and of equal quality, I will go with you. If the object be really a good one, I see no reason for concealing it from the people, and wrapping it up in the mystery of *minimums*: and if it be a bad one, we ought not to impose it upon our constituents merely because we have found out how to envelope the evil in clouds and darkness. I will not say I would vote against the bill for this cause alone; for, although it be a serious objection, the bill might be so amended in other particulars, as to make me feel it a duty to yield it my support.

FRIDAY, April 18.

*The Tariff Bill.*

The House proceeded to the consideration of the Tariff bill.

Mr. McDUFFIE said: Mr. Speaker, after the protracted debate which has already taken place on this bill, I sincerely regret the existence of circumstances which impose upon me something like a moral necessity of trespassing still further upon a stock of patience which, I am aware, must be nearly exhausted. During a skirmishing warfare of conflicting pretensions, of six or seven weeks' duration, between the advocates of the prohibitory policy—a warfare which furnishes a most instructive commentary upon this whole system—the representatives of that portion of the Union which is to be the peculiar and destined victim of its oppressive injustice have maintained, almost without exception, a profound but expressive silence. And I am not sure, sir, that we should not go through this great national sacrifice with a more impressive and dignified solemnity, if we were to maintain the same silence throughout the ceremony. But although experience admonishes us of the impotence of argument against measures of this description, it is a duty we owe, as well to our constituents as to the nation at large, to protest against the passage of a bill pregnant with so many evils, and to demonstrate its injurious and destructive bearing upon those great interests which we are under the most sacred obligations to protect. And I feel assured that when we ask the atten-

tion of the House for as many days only—I might almost say as many hours—to demonstrate the injustice and impolicy of this measure, as its friends have taken weeks to mature its strength and adjust its proportions, we will not ask more than will be cheerfully accorded to us.

We were told by a member from Rhode Island, (Mr. BURGESS,) (and it brings us to the very essence of this contested question) that the invariable effect of giving adequate protection to domestic manufactures—that is to say, prohibiting foreign manufactures—has been, and will be, to ensure the production of the domestic article cheaper than the rival fabric could be imported from abroad. I admit, sir, that this proposition—stated by the member from Rhode Island as if it were a revelation of his own, but which has been reiterated more than a hundred times by Mathew Carey and Hezekiah Niles—is the very hinge upon which the whole argument must turn. And I now pledge myself to demonstrate—and I put the issue of the whole contest upon the demonstration—that there are causes, growing out of laws as well ascertained and as immutable as the law of gravitation, which render it absolutely impossible that any of the manufactures embraced in this bill can be made as cheap in this country as they can be made in the countries from which we import them. And I pledge myself, more particularly, to prove that woollen manufactures cannot be made in this country any thing near as cheap as they can be made in England, even after our manufactories shall have been protected for ten years by prohibitory duties, and after the utmost attainable skill shall have been acquired in the process of manufacture.

What are the elements into which the price of the manufactured articles, not only of wool, but of every other material, is naturally resolved by the simplest analysis of political economy? It will not surely be required of me to demonstrate the axioms—I will not say of political economy, but of common sense. I will, therefore, assume, what must be known to every member of this House, that the cost of a manufactured article, so far as regards the process of fabrication, can only be resolved, push the analysis as far as you may, into two elements: the wages of labor and the profits of capital. The raw material is a matter that requires a separate consideration, and may therefore be regarded as a third element; though, strictly speaking, it is embraced in the former two.

What, then, is the comparative price of labor in Great Britain and in the United States? Sir, there is nothing in the history of this contest, on the subject of protecting manufactures, that I have witnessed with more astonishment and regret, than the utter recklessness with which the advocates of the protecting system, out of this House, make their statistical statements. The propriety of this remark will be readily admitted, when I state, that it is gravely

asserted in a document, emanating from the celebrated Harrisburg Convention—that great Catholic council of practical wisdom, whose instructions we are required to obey implicitly, at the peril of excommunication—that labor is actually cheaper in the United States than it is in Great Britain!! Yes, sir, this authoritative assembly, after boastfully stating as a proof of the prosperity produced by the establishment of manufactories in the United States, that, “in well-regulated factories, the wages of men range from five to twelve dollars per week;” say, almost on the very next page, in attempting to prove that domestic manufactures can be made cheaper than the foreign can be imported, “we assert, without the fear of contradiction, that the price of manual labor, is really cheaper in the United States than in Great Britain!” In order to show that this latter assertion is entirely destitute of foundation, I will briefly collate the statements of one of our own manufacturers, made before the Committee on Manufactures, with authentic statements of the price of labor in Great Britain. Mr. Dexter, a manufacturer of woollens in New York, stated the wages of all the men employed in his establishment, as follows: “One machinist at \$1 50 per working day; one superintending weaver at \$1 37½ per working day; one principal fuller, one presser, two hands in the finishing room, and one dyer, each at \$1 25 per working day; ten hands in the spinning and carding rooms, two assistant carders, and one assistant in and about the dyeing house, each \$1 per working day.”

I will now exhibit a statement of the wages of manufacturing labor in Great Britain, derived from witnesses examined before the Emigration Committee, and contained in their third report. I quote from the *Monthly Magazine* for December, 1827:

“Joseph Foster and James Little, working ‘hand-loom weavers’ of Glasgow, persons who give their evidence with the most laudable temperance and good sense, state, that a hand-loom weaver at Glasgow gets now, upon an average, from 4s. 6d. to 7s. a week, wages; this is at piece work, and to earn so much he must be employed eighteen or nineteen hours.”

“Mr. Archibald Campbell, member for Glasgow, confirms the evidence of these witnesses.”

“Mr. Home Drummond, member for Renfrew, concurs in the opinion of Mr. Campbell.”

“Mr. Thomas Hunter, a master manufacturer at Carlisle, says: ‘I have taken out fifteen of my men—five of them are employed at the best work, and pretty constantly employed—and I find their average net earnings to be 5s. 6d. per week, deducting all necessary expenses of loom rent, candles, tackling, &c.’ In conclusion, this witness puts in a table of wages and expenses, from which it appears, that the best hand-loom weavers in his employment are only able to earn 5s. 6d. a week.”

“The Rev. Matthias Turner states that ‘the admitted calculation is, that a family cannot exist upon less than a half crown a week, per head, and when that amount is not earned, the parish makes up the difference.’”

APRIL, 1828.]

Tariff Bill.

[H. of R.]

These comparative statements conclusively disprove the absurd allegation, so confidently made in the report of the Harrisburg Convention. They clearly show, that a laborer of a given description receives in this country nearly as much, for the labor of a day, as such a workman would receive in many parts of Great Britain, for the labor of a week. Even, sir, if we assume 12s. a week, which is the highest rate of wages obtained by the first-rate weavers in the most prosperous establishments in England, as the basis of the comparison, it will yet follow that an American weaver, taking the lowest average, receives between two and three times as much, for working eleven hours a day, as a British weaver receives for working sixteen. And if we have regard to the efficiency and productiveness of labor, the difference will be still greater. It would not be extravagant to say, that a given quantity of work can be done in Great Britain for one-third of the price it would cost in the United States. And yet we are informed, by manufacturers, testifying on oath, that they can manufacture woollen cloth as cheaply as it can be manufactured in England; and by the Harrisburg Convention, that "manual labor is really cheaper in the United States than in Great Britain!" But, sir, when pressed with the decisive and unanswerable evidence I have stated, the advocates of the prohibitory system resort to a subterfuge worthy of a cause which rests on delusion. We were told, for example, by the member from Rhode Island—and the argument would have been very ingenious if it had not been a dull absurdity, and very original if it had not been worn threadbare by Mathew Carey and Hezekiah Niles, "that, although labor is so very cheap in Great Britain, yet owing to the oppressive weight of British taxation, the British manufacturer cannot contend with the untaxed labor of the United States." Now, sir, is it not palpably obvious to every one who knows any thing about the subjects of British taxation, that the British laborer pays his taxes, oppressive as they are, out of the miserable pittance which he receives as the wages of his labor? Every thing he eats, drinks or wears, every blessing he enjoys—even the light of heaven, comes to him charged with the burthen of excise and impost duties and direct taxation. Sir, can it be possible that those who undertake to instruct the National Legislature on this grave subject, can be so utterly ignorant of the commonest elementary principles, as not to perceive that the comparative weight of British and American taxation, can have no possible bearing upon the question at issue? An American manufacturer receives six dollars a week, a British manufacturer only two. The British manufacturer performs one-third more labor in a day than the American, and pays out of his wages six times as much tax. And, in the face of all this, the Harrisburg Convention, followed by the member from Rhode Island, go into a solemn mockery of reasoning, to prove that

labor must be "really cheaper" in this country, because taxes are lower!

I need scarcely add, sir, that the same course of reasoning which I have applied to labor, is applicable to the profits of capital. The capitalist who lends money in Great Britain at 8 per cent. pays all his heavy taxes out of this low rate of interest; whereas the American capitalist, though he pays much less tax, will not take less than six per cent. for his money. The case, then, is clearly made out, and the argument has not been fairly met, but artfully evaded, that the wages of labor, and the profits of capital, taking the average of both, are permanently one hundred per cent. at least, higher in the United States than they are in Great Britain.

What, then, are we to think of the testimony of our manufacturers, when they tell us they could manufacture woollen cloth as cheap as it can be made in Great Britain if it were not for the higher price they have to give for the raw material? Can such a statement be regarded as testimony at all? I do not mean to assert, though this statement is obviously false upon the face of it, that the manufacturers are obnoxious to the imputation of stating what they know to be false. What I mean to say is, that their crude and conjectural opinions upon a question of which they are entirely ignorant—opinions founded upon the loosest sort of hearsay evidence of the state of things in other countries, are not entitled to the slightest possible weight in this investigation.

Having shown, sir, that the two principal elements which enter into the cost of manufactured articles, are more than one hundred per cent. higher in the United States than they are in Great Britain, how is it possible that those articles can be fabricated in this country as cheap as in Great Britain? Here, then, is a plain, common sense, practical view of the question, involving no speculative theory, and level with every understanding; and I confidently defy any man to meet the issue fairly and candidly, without being exposed to utter defeat and overthrow.

Having said this much on the cost of the fabrication, I will proceed to submit a few remarks, applicable to woollen manufactures, relative to the cost of the raw material. The manufacturers come here, and tell us with a liberality quite as commendable as their consistency, that it is indispensably necessary to give further protection to the wool growers; that they are rapidly abandoning their business, and will entirely abandon it, if they do not get better prices for raw wool. And to give a tragical interest to the subject, we have been told that, if the price of wool be not raised, the knife will be speedily applied to the neck of every merino sheep in the country; and this bloody scene of oratorical sheep slaughter is conjured up to excite our tender sympathies, at the very moment that we are told, from the same quarter, that raw wool is now selling in the United States 60 or 70 per cent. higher than it is in Great Britain. Now, sir, though



I admit that this tragic story is pregnant with a most instructive moral, it is a very different one from that deduced by the manufacturers. It proves, most conclusively, all that I have said on the subject of the wages of labor and the profits of capital. For it will be conceded, I presume, that if any thing can be produced cheaper in this country than in Great Britain, it is the produce of the soil and the animals sustained by it. And yet the very men who would make us believe they can manufacture woollen cloths as cheap as it can be done in Great Britain, tell us that the British farmer, upon land which cost ten times as much as such land would cost in the United States, can sell wool for little more than one-half the price to which it must be raised in the United States to prevent the wool grower from abandoning the business. It is most obvious, then, that the high price of wool, like the high price of manufactures made in this country, is founded upon permanent causes.

There cannot, indeed, be a higher evidence of that prosperity which we derive from the munificent bounties of Providence, and which we are laboring so sedulously to destroy, than the fact that a farmer in the United States can apply his labor and capital more profitably than in raising wool and selling it at a price 70 per cent. higher than the British farmer obtains for his. It is perfectly evident, therefore, that if both foreign wool and foreign woollens were absolutely prohibited, and the domestic manufacture "completely established," to use the favorite phrase of its advocates, there would be a permanent increase of the price of woollen manufactures, and of raw wool, to an extent that will be presently stated.

The idea that domestic competition will reduce the price till it becomes as low as that of the foreign production, is founded upon an utter confusion of ideas, and a total misconception of the whole matter, though this proposition was stated, by the member from Rhode Island, as a thing so obvious that those who denied it must be sinning against light.

Having disposed of one branch of this dry argument, I beg leave, by way of episode, to call the respectful attention of the House to the address of the Harrisburg Convention, that celebrated document which has been trumpeted forth to the nation as the great depository of practical wisdom, and as containing an unanswerable vindication of the doctrines I am attempting to refute. I beseech the House to favor me with as much gravity as they can command, while I read, for their edification, the first sentence of that wonderful production, which I also beg them to remember is the work of practical men, taking a mere business view of the subject. Here it is: "The ever-restless thirst for knowledge in man, leads him to the measurement of the volumes of the waters discharged by the rivers, to the weighing, as it were, in a balance, the Alps and the Andes, to the establishment of the courses of the planets,

and a determination of the eccentric ranges of comets through the immensity of space itself, [Bear it in mind, Mr. Speaker, that this is about woollen manufactures!] and reduce it to human ideas of the extent of matter—[I suppose you know what that means!] yet the study of himself, the ascertainment of those qualities given to render himself and his fellow man happy, are fatally neglected, [I am not half through the sentence yet!] and the capacities of the human race to walk erect, the image of God, are chiefly given up to the warm visions of speculators, or cold calculations of tyrants and masters; to the former, to indulge some pretty theory or beautiful notion, fitted to other conditions and circumstances of society—and to the last, that it may be counted how many must be slaughtered to win a battle in the field, or how great burthens he (who?) can bear, (Deliver us from this tariff!) and still exist to labor, and groan out 'a weary life of servitude and shame.'" Now, sir, when I inform the House that this is a fair specimen of the entire composition, I presume no man of discriminating taste and sound judgment will hesitate to admit, that the grave solemnity and dignified simplicity of the style, is in perfect keeping with the "great argument" of which it is the vehicle. But, sir, that you may have a specimen of the didactic portion of this sententious and statesmanlike document, I will gratify you with a sentence from the main body of the work, in which we are indirectly advised to establish a home department: "In the want of a Home Department, in which, as in our own 'plummet found' Mississippi, rolling the congregated waters of millions of supplies, (millions of water!) to a common reservoir, might be found collected the multitudinous!! facts necessary to a correct understanding of the internal affairs of our country, and a wise legislation concerning them—in the general deficiency of knowledge in political economical subjects, and of the desire to obtain it from the absence of professorships in our superior schools, to lead the mind of youth to contemplate and add up the sum of production and consumption, and investigate the wants of this nation and its means of supply—(I do not understand the meaning of all this jumble of words: but mark the inference!) it is to be regretted the Convention had not remained in session a considerable time, (Heaven forbid!) that the dispersed and important facts in the possession of as respectable a body of practical men! as ever was assembled, might have been fully gathered, and preserved for public instruction, but the sparse items mutually communicated, and in part retained, may act like 'a little leaven,' and 'leaven the whole lump,' if liberally received and rightfully used!!!" Now, sir, having extricated myself from the Cretan labyrinth of this sentence, and recovered my breath a little, I must be permitted to say, that we have here a combination of high sounding words, mixed metaphors, swelling bombast, and profound bathos, which

April, 1828.]

Tariff Bill.

[H. OF R.]

it would puzzle all the rhetoricians in Christendom to bring within the compass of any definition. Neither Aristotle, nor Blair, nor Campbell, could reduce it to any of the categories of rhetoric; and, as to Longinus, it never entered into his imagination to conceive of such sublimity. In all my reading, sir, I recollect but a single specimen of style having any resemblance to it; and that is in an oration I heard recited from the Columbian Orator, when I was a boy at school. (I had too much taste, even then, thank Heaven! to speak it myself.) It was in the following words, and will apply to the subject of woollen manufactures, as well as the sentences I have just quoted: "Guided by reason man has travelled through the abstruse regions of the philosophic world. He can trace the comet's flight through the regions of immeasurable space: he can almost make the marble speak." Now, with all becoming deference, I would suggest, that the Harrisburg Convention stand much more in need of a Professor of Rhetoric, than they do of a Professor of Political Economy. Their address would certainly furnish abundant matter for a new theory of the art of rhetorical mystification.

But, sir, to be serious. I should not have criticized this document with so much severity, if it were not that I feel indignant, as an American, at the very thought of its miserable jargon going down to posterity as the foundation of this prohibitory system, and as the apology offered by an enlightened people for submitting to the most odious and oppressive tyranny ever devised by "artful men, for private advantage, under pretence of public good." The writer of this address, who is a mere instrument in the hands of designing men, understands no more of the political and economical bearing of the "American system," than the intoxicated priestess at Delphos understood the effect of the oracular responses she uttered from the tripod, and which an artful priesthood countenanced by political rulers, converted into the means of governing the world.

It has been conceded by all the intelligent advocates of the protecting system, from Alexander Hamilton to the present Secretary of State, that free trade would be most conducive to national prosperity, if all nations would pursue the policy of tolerating it. In other words, we are called upon to protect our manufactures against foreign regulations, which are supposed to be of a tendency to give foreign manufacturers an undue advantage over ours, in competing for our own market. Now, sir, I undertake to establish the proposition—and I will concede the policy of this measure, if I do not—that there is not now a single bounty on the statute book of Great Britain for encouraging either the making or the exportation of any one of the manufactures embraced in this bill, nor a single commercial restriction that does not tend to give our manufacturers an advantage over the British, in our own and in foreign markets.

But, sir, if this oppressive system of policy, of which this bill is almost the consummation, shall be pushed any farther than it has already gone, our brethren of the North will not long have to complain that they consume so large a portion of the proceeds of the staples we now export to Great Britain. There is a retributive justice in the dispensations of Providence—and I thank God that there is—which makes injustice and tyranny, when carried beyond a certain point, recoil upon the oppressor. Sir, if you were to destroy—utterly destroy the foreign trade in cotton, the very portions of the Union at the shrine of whose imaginary interests you propose to make the offering, would find themselves deeply and incurably injured, while we should derive a sustaining consolation, in the midst of our sufferings, from the proud consciousness that our own folly and wickedness had no agency in producing the calamity, and that our own firmness, industry, and economy, would enable us to work out new sources of prosperity. There is a pleasure in bearing up against oppression, which the oppressor can never enjoy; and I solemnly declare, sir, that I would rather be the victim of this abominable scheme of legalized plunder, than to meet the dreadful responsibility, moral and political, of imposing it upon the nation.

Yes, sir, I warn gentlemen that they have a fearful responsibility to encounter, both to their own constituents and to the Union. Thus far the burdens of this system have fallen principally on the Southern States. But it has now reached a point, beyond which you cannot carry it with impunity. Even the colonial vassalage of the Southern States—and they have been better colonies to the Northern States, than they ever were to England—will be no longer profitable to you, if you pass this bill. We shall be compelled to change the whole economy of our industry, and to become the rivals instead of the customers of the Northern States. I have stated, on another occasion, that we import from the North, of the productions of the soil, in their natural and crudely manufactured state—potatoes, onions, beer, cider, spirits, beef, pork, soap, candles, cheese, and an almost endless list of small articles, to the amount of two millions of dollars, excluding what are usually called manufactures. I will now add, that we import a very large amount of manufactures from the Northern States, which every principle of sound policy, and every dictate of patriotism, will urge us to make within ourselves, if this bill shall become a law. Of these I will barely mention, by way of illustration, the article of negro shoes, which the States of South Carolina and Georgia alone import, to the amount of half a million of dollars annually, and which every planter has the means either of making himself, or procuring in his own vicinity, in exchange for the productions of his plantation. When, therefore, the hard lessons of economy shall be impressed upon us by the burden of

this system, I venture to assert, that the internal trade of the country will be curtailed, including that with the West, to the extent of seven millions of dollars; an amount nearly equal to that of the foreign manufactures of wool now imported. But the inevitable result of this measure will be to produce a reaction, ruinous not only to the great mass of the population in the manufacturing States, who have all along been the suffering and deluded victims of the manufacturers, but ruinous to the manufacturers themselves. The Southern States will be driven, by necessity, to make the experiment of manufacturing by slave labor, and nothing but an experiment is wanting to demonstrate, that we can drive the Eastern manufacturers out of our own market at least. The average cost of slave labor, which I believe better adapted to manage the ordinary operations of machinery, than hired free labor, will not cost us more than half the price of labor in the northern manufactories, and our water power, of which we have an unlimited command at all seasons, would cost us comparatively nothing. While the manufacturers of cotton bagging in Kentucky, are indulging in the anticipation of compelling us to pay 25 and 80 cents a yard for their hemp bagging, they will find that we can manufacture an article better adapted to our purposes, out of our own cotton, for half that price, thereby greatly increasing the consumption of our own material. And the Eastern manufacturer of cotton goods, while indulging in dreams of profitable monopoly, will find that our decided advantage in the superior cheapness of labor, the raw material and water power, will enable us to undersell them long before we attain equal skill in the process of manufacturing. In a word, sir, those parts of the Union that have co-operated in establishing this fatal policy, will find, that however much they have benefited by our prosperity and wealth, they will derive no advantage from our distress and poverty. And the mass of the people of the Eastern, Middle, and Western States, when suddenly deprived of the domestic market for their productions, which they now enjoy to the extent of seven millions of dollars annually, will realize, in their own distress, the promised blessings of this great system of deception and delusion.

Mr. Speaker, it is distressing to witness the kind of aristocratic influence, by which measures of this sort are obviously controlled. I have witnessed, with astonishment and regret, as a strong proof of the aristocratic tendency of every system of Government, the melancholy fact, that intelligent and honorable men upon this floor, in whose Congressional districts there is perhaps a single manufactory of iron, owned by perhaps the very wealthiest man in the country, will give their votes, without the least compunction, to impose an odious and oppressive tax upon the remaining thousands of their poor constituents, to increase the profits of one wealthy nabob.

And yet, sir, we hear gentlemen very gravely talking about promoting the interest of "a whole State," when they are in the very act of imposing a tax upon the great body of the people of that very State. Such, for example, was the language used by the gentleman from Missouri, when urging the expediency of increasing the duty on lead; when, I will venture to say, one hundred of his constituents would feel the tax, where one of them would realize the bounty of such an imposition. And yet, sir, we talk about a democratic Government, and the responsibility of the Representative to the people! I speak not the language of a demagogue, but the grave and solemn language of historical and philosophical truth, when I say, that it is the very genius of this system, as exhibited in this and every other country, to tax the many and the poor for the benefit of the few and the wealthy. Take up the articles embraced in the scheme of protection, one by one, and I defy any man to point out a single one of them that does not specifically prove and illustrate the proposition I have laid down. Salt, for example, is an article of first necessity, equally consumed by the poor and the rich. The people of the United States now pay about one hundred per cent. on every bushel of salt they consume, amounting in the aggregate to a tax of at least a million and a half dollars, paid by all classes, for the exclusive benefit of the owners of some one or two hundred salt works at the utmost. The same remark is strictly applicable to the duty on iron. It imposes a universal tax, both heavy and permanent, for the benefit of not more than one or two hundred ironmasters in the United States. And I appeal to the members from Pennsylvania, Maryland, and Western Virginia, to state whether these men have not accumulated princely fortunes by the very business which we are taxing the people still higher to sustain? I was myself informed by one of those ironmasters, that the establishment in which he was concerned yielded an annual income of, I think it was, \$15,000 or \$20,000, and that he could afford to sell iron at ten dollars a ton less than the present prices, and do a profitable business. And yet, sir, with all the republican simplicity imaginable, we are imposing a heavy tax upon the whole democracy of the country, to increase the already overgrown fortunes of this single branch of the aristocracy! The high duty on imported sugar is another illustration of the view I am attempting to impress upon the House; and I am induced to notice it the more particularly, because it has been urged as a reason why the Southern States generally ought to submit to the proposed imposition of high duties on other articles. Sir, what sort of logic is that which urges the justice of imposing a tax upon South Carolina for the benefit of Massachusetts, because a tax has already been imposed upon both South Carolina and Massachusetts for the benefit of Louisiana? I do not understand this system of sectional com-

Ann, 1828.]

Tariff Bill.

[H. OF R.]

bination—I am sure it is not founded upon the principles of the constitution—by which South Carolina is to be made responsible to Massachusetts for the duty on sugar, any more than she is responsible to Louisiana for the duty on woollens. By all the ties which consecrate this Union, my State stands in as near a relation to Massachusetts as to Louisiana, and he does not consult either the spirit of the constitution, or the harmony of the Union, who deduces such an argument as that which I am considering from geographical juxtaposition merely. I, sir, complain of the duty upon sugar, as much as any other member of this House. It is obnoxious, in a peculiar manner, to the objection I have urged against the duties on salt and iron; it is a tax on the great body of the people, for the benefit of some two or three hundred sugar planters, who are men of immense wealth; for the fact is notorious, that the business is almost exclusively confined to large capitalists. Every family in the United States that consumes 33½ pounds of sugar, pays a tax of one dollar to these wealthy monopolists; and I know a single individual—he is a personal friend—worth between two and three millions of dollars, who receives annually about 30,000 dollars as his dividend of this national bounty.

Can there be a more striking proof of the injustice, and impolicy, and anti-republican tendency of this system? It imposes a tax of at least four millions five hundred thousand dollars upon the mass of the people in every State in the Union, for the sole and exclusive benefit of the iron-masters, sugar-planters, and owners of salt works, not amounting, in the whole Union, to more than from five hundred to one thousand persons; and if we add all the owners of cotton and woollen manufactories in the United States, it would not swell the number to two thousand. Sir, the foundation of an aristocracy of wealth was never more distinctly laid in the legislation of any country on earth; nor was the democracy of any other country ever subjected to such an enormous tax to sustain a privileged order. There is nothing in the legislation of England, not excepting the oppressive system of the corn laws, more justly obnoxious to condemnation.

But, sir, the manufacturers, with an art common to all those who, by the various devices of human cunning, have made subservient to their purposes the credulity of the multitude, allege, that the great body of farmers, constituting, perhaps, three-fourths of our population, are interested in the establishment of manufactures as a means of obtaining a market for their wool. Conceding, as I readily do, that the establishment of manufactories, when not forced by artificial means, is beneficial to such farmers as live within their vicinity and have capital sufficient to embark in the business of wool-growing, yet I confidently appeal to every member from the wool-growing portions of the Union, to say whether the business of

growing wool for the manufacturing establishments, is not confined to a very small portion of farmers, consisting of those who have the largest capital? Yes, sir, I have been assured by members on this floor, engaged in the business of wool-growing, that the small farmers do not even raise wool for their own consumption, but actually buy it from those of the more wealthy class. I may venture to assert that, taking the average even of the wool-growing States, there is not one in fifty of the farmers who raises wool for sale; and that the whole number of wool growers in the United States, who would be at all benefited by the duty upon raw wool and woollens, would not exceed ninety thousand persons. Thus it is, sir, that this bill maintains a consistent character throughout all its provisions, and the great democratic farming interest, represented as constituting nine millions of our population, dwindles into an aristocracy of ninety thousand of the most wealthy farmers. It is to provide a small bounty for those wool growers and a very large one for the still smaller number of woollen and cotton manufacturers, iron masters, sugar planters, and owners of salt works, that the other classes of the people, including more than eight millions nine hundred thousand of the people of the farming States, are compelled to pay an annual tax of about fifteen millions of dollars. Such, sir, is the operation, and such the political tendency of this system. The heavy burden of its taxation falls upon all sections of the Union, and all classes of the community; whereas its bounties are confined to a number not much larger than the constitutional aristocracy of some other countries. But, sir, I shall be probably asked how it happens that the capitalists of the South, the wealthy cotton planters, are arrayed on the side of the great mass of the people, in this contest between capital and labor? Have they more knowledge or more honesty than other capitalists? Sir, I set up no such pretension for them. We lay claim to no other intelligence and honesty than such as enables us to understand, and prompts us to defend, our own rights. I will not undertake to say that we might not be tempted to join this plundering expedition, if a tariff could be so regulated as to increase the price of cotton. But such is our position in this contest, that our interest throws us into a natural alliance with the great body of the people in the farming States. The wealthy cotton planter of the South fights by the side of the small farmer, the mechanic, the merchant, and the laborer, in New York and Pennsylvania, because they all have a similar interest in opposing a system of which the burden falls upon them and the benefit on others. And this accounts for the fact—notorious in our political history—that what some are pleased to call the aristocracy of the Southern States, has always been found on the same side with the democracy of the Northern States in the political controversies by which the country has been divided. It is

a natural alliance. (The Southern States, depending on free trade for their prosperity, must always be opposed to any attempts on the part of this Government to build up, by commercial prohibitions, an aristocracy of favored monopolists. Sir, this is not a contest, as some are anxious to represent it, between the Southern and Northern States. It is a contest of less than one hundred thousand manufacturers and farmers, against all the other farmers and manufacturers in the Union, and against the whole population in the Southern States.)

I will now invite the attention of the House to one or two views of this subject, connected not so much with political economy as with a much more important branch of politics: that which looks to the true foundations of liberty and the probable destiny of this Government.

I am not one of those, sir, who habitually stickle upon mere technical questions of constitutional construction and constitutional power. I believe such questions are not those upon which the safety of the Republic depends. I grant, sir, that Congress has the power to lay duties upon foreign merchandise for purposes other than those of revenue. These duties may be legitimately laid for the regulation of foreign commerce. But, sir, though I admit the power of this Government to the extent just stated, I am prepared to demonstrate that, to attempt any interference with the distribution of domestic capital and domestic labor, by taxing one portion for the benefit of another, under pretence of regulating commerce, is a gross and fraudulent abuse of a constitutional power. A regulation of commerce, to be legitimate, must have reference to our foreign relations and international rights, not to our internal relations and the rights of private property. The importance of this distinction will be at once perceived, if we advert to its bearing upon the great principle of political responsibility. Wherever the interest involved is a general interest—such, for example, as foreign commerce, and the public safety—the States, if permitted to interfere with it, would act without responsibility. The interest of the whole would be subjected to the irresponsible action of a part. In like manner, wherever the interest involved is a local interest, such, for example, as the interest of the cotton grower, this Government, assuming to act upon it, acts without responsibility. (Of what consequence is it, that the cotton States have some fifty or sixty representatives, in a body composed of two hundred and thirteen? Who are they, that are about to pass this tariff dooming our fields to desolation? Have they any community of interest or of sympathy with the cotton growers? On the contrary, are they not stimulated by the hope, (false and delusive, I grant you,) that their prosperity is to be reared upon our ruins? The interest of the cotton grower is essentially dependent on foreign commerce. The free and unrestricted enjoyment of that commerce, is a

natural and political right of the most sacred character, and which nothing but the highest public emergency could justify this Government even in suspending. And yet, sir, without even the pretence of any motive connected with the defence of our national rights or honor, in a time of peace and harmony with the whole world, the Representatives of the other States are about to pass a law, notoriously destructive of the rights and interests of the cotton States. (What nonsense would it be to talk of Representative responsibility, when those who destroy our prosperity believe it to be their interest, and (if that be possible) their right and duty to destroy that prosperity? If, sir, as the advocates of this tariff allege, it is the interest of two-thirds of this Union, to destroy the prosperity of the other third, by cutting off the only means of that prosperity, would it be possible for that other third to submit to a practical interpretation of the compact of union, by which the right of the two-thirds would be recognized to destroy the other? This species of Government interference with the rights of private property, would be unjust and tyrannical, even in a local Government extending over a homogeneous population, and over interests equally and generally diffused over the whole geographical surface; but, in a Federal Government, extending over various sectional interests, it is utterly intolerable.)

Sir, if the union of these States shall ever be severed and their liberties subverted, the historian who records these disasters will have to ascribe them to measures of this description. I do sincerely believe that neither this Government, nor any free Government, can exist for a quarter of a century, under such a system of legislation. Its inevitable tendency is to corrupt, not only the public functionaries, but all those portions of the Union and classes of society who have an interest, real or imaginary, in the bounties it provides, by taxing other sections and other classes. What, sir, is the essential characteristic of a freeman? It is that independence which results from an habitual reliance upon his own resources and his own labor for his support. He is not in fact a freeman, who habitually looks to the Government for pecuniary bounties. And I confess that nothing in the conduct of those who are the prominent advocates of this system, has excited more apprehension and alarm, in my mind, than the constant efforts made by all of them, from the Secretary of the Treasury down to the humblest coadjutor, to impress upon the public mind the idea that national prosperity and individual wealth are to be derived, not from individual industry and economy, but from Government bounties. An idea more fatal to liberty could not be inculcated. I said, on another occasion, that the days of Roman liberty were numbered when the people consented to receive bread from the public granaries. From that moment it was not the patriot who had shown the greatest capacity and made

ARIZ., 1828.]

Tariff Bill.

[H. OF R.]

the greatest sacrifices to serve the republic, but the demagogue who would promise to distribute most profusely the spoils of the plundered provinces, that was elevated to office by a degenerate and mercenary populace. Every thing became venal, even in the country of Fabricius, until finally the empire itself was sold at public auction! And what, sir, is the nature and tendency of the system we are discussing? It bears an analogy, but too lamentably striking, to that which corrupted the republican purity of the Roman people. God forbid that it should consummate its triumph over the public liberty, by a similar catastrophe, though even that is an event by no means improbable, if we continue to legislate periodically in this way, and to connect the election of our Chief Magistrate with the question of dividing out the spoils of certain States—degraded into Roman provinces—amongst the influential capitalists of the other States of this Union! Sir, when I consider that, by a single act like the present, from five to ten millions of dollars may be transferred annually from one part of the community to another; when I consider the disguise of disinterested patriotism under which the basest and most profligate ambition may perpetrate such an act of injustice and political prostitution, I cannot hesitate, for a moment, to pronounce this very system of indirect bounties, the most stupendous instrument of corruption ever placed in the hands of public functionaries. It brings ambition and avarice and wealth into a combination, which it is fearful to contemplate, because it is almost impossible to resist. Do we not perceive, at this very moment, the extraordinary and melancholy spectacle of less than one hundred thousand capitalists, by means of this unhallowed combination, exercising an absolute and despotic control over the opinions of eight millions of free citizens, and the fortunes and destinies of ten millions? Sir, I will not anticipate or forbode evil. I will not permit myself to believe that the Presidency of the United States will ever be bought and sold, by this system of bounties and prohibitions. But I must say that there are certain quarters of this Union, in which, if a candidate for the Presidency were to come forward with the Harrisburg tariff in his hand, nothing could resist his pretensions, if his adversary were opposed to this unjust system of oppression. Yes, sir, that bill would be a talisman which would give a charmed existence to the candidate who would pledge himself to support it. And although he were covered with all the “multiplying villanies of nature,” the most immaculate patriot and profound statesman in the nation could hold no competition with him, if he should refuse to grant this new species of imperial donative.

Mr. Speaker, such are the disguise and delusion incident to this sort of legislation, that business and treachery are not unlikely to recede the reward appropriate to disinterested patriotism. I believe, for example, that if a

man of sufficient prominence to aspire to the Presidency, and representing a people whose interests were to be immolated by this system, would be base and bold enough to make that offering at the shrine of his own ambition, he would find it the most certain and direct avenue to popularity and power. He would be hailed by the whole tariff party as a high-minded statesman and disinterested patriot; and even his own infatuated constituents, the miserable and deluded victims of his treachery, whose very bread he had sold for the purple of power, would not improbably be found in the ranks of his followers, swelling the chorus of his praise. Indeed, sir, when I contemplate the extraordinary infatuation which a combination of capitalists and politicians have had the singular art to diffuse over more than one-half of this Union—when I see the very victims who are about to be offered up to satiate the voracious appetite of this devouring Moloch, paying their ardent and sincere devotions at his bloody shrine; I confess I have been tempted to doubt whether mankind was not doomed, even in its most enlightened state, to be the dupe of some species of imposture, and the victim of some form of tyranny. For, sir, in casting my eye over the history of human idolatry, I can find nothing, even in the darkest ages of ignorance and superstition, which surpasses the infatuation by which a confederated priesthood of politicians and manufacturers have bound the great body of the people in the farming States of this Union, as if by a spell, to this mighty scheme of fraud and delusion. I recollect nothing, sir, that bears so near a resemblance to it, or which furnishes so striking an illustration of this branch of human frailty, as the story—so beautifully told by the Irish poet—of the celebrated Veiled Prophet of Khorassan. This bold impostor came into the world without any of the features which distinguish the human face, an object of disgusting deformity. With the fiendlike purpose of avenging his shame upon the human race, he reared the standard of a new religious dynasty, in opposition to the Caliph. As a means of accomplishing his great imposture, and at the same time concealing his deformity, he covered himself with a silver veil; giving it out to his followers that the heavenly light of his countenance, by which the faithful were to be finally blessed after reaching a certain state of purity, was for the present kept, in mercy, from their sight. Thousands of devoted followers thronged to his standard, looking forward, amidst every disaster, and every disappointment, to that glorious day, when the angel brow of their prophet was to be “uncurtained to their view.” I need not tell you, sir, that this vision of their hopes was never realized. On the contrary, at the very time he was idolized, by the blind devotion of his followers, as a redeeming angel commissioned by Heaven to free the world from sin and bondage, he was daily muttering, in the

midst of his pretended orisons, infernal execration against the hated race of human kind, and staining the altars of his demoniac passions with every species of crime and every species of sacrifice. And finally, when enclosed by the beleaguering forces of the Caliph, and surrounded by a "frightful wilderness of death," covered over with his own deluded followers, he selected this as the appropriate scene of a holy festival, at which he was to unveil, to the chosen few of his followers who still survived the successive disasters and disappointments to which he had exposed them, the long-expected splendors of his godlike brow. The board was spread "in splendid mockery;" and after administering to each of these deluded victims a poisonous draught, as a nectar proper for those who were destined for the skies, he raised the awful veil; when behold! his wretched followers, in their very last agonies, shrunk back, as from a loathsome and detestable monster, more foul than hell, more horrible than death.

Such, sir, are the promised blessings of this protecting system; such is the veil which covers its deformity; such are the sacrifices it imposes, even on its own deluded followers; and such, I fear, will be the final consummation of this stupendous scheme of imposture and delusion.

SATURDAY, April 19.

#### *Tariff Bill.*

The House proceeded to the orders of the day, viz: the consideration of private bills. On motion of Mr. MALLARY, the private business was postponed, and the Tariff Bill came up for consideration. The motion pending was that of Mr. RANDOLPH, that the bill be indefinitely postponed.

Mr. ALEXANDER said: In examining this question, he should not follow the example of gentlemen who had gone before him, in attempting to show that the duty should be laid on the square or the running yard, on molasses or hemp; or that it was the wool grower, and not the manufacturer, who required protection. It was all the same to him. They were alike equally oppressive, destructive of the principles of the constitution, and it mattered not who was the executioner, if he were to be made the victim. He said destructive of the principles of the constitution, because subversive of the ends of its creation; these being "to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity. He would not say that these terms did, of themselves, convey any power, farther than admonitions to gentlemen who may choose to risk the consequences—beacons, as it were, by which the vessel of State may be safely steered throughout her political voyage. What peace, what happiness, was to be enjoyed under this bill, marked, as it is, with the iron hand of tyranny and oppression throughout? It has

any thing else to recommend it to the American people, but "union, justice, and domestic tranquillity," and is a mockery of the terms themselves.

It was well observed by Chief Justice MARSHALL, in the case of *Gibbons vs. Ogden*, in alluding to the causes which led to the separation of the colonies from the mother country, that "the right to regulate commerce, even by the imposition of duties, was not controverted; but the right to impose a duty for the purpose of revenue, produced a war as important, perhaps, in its consequences to the human race, as any the world has ever witnessed." A declaration of this sort should have some weight with gentlemen, as it deserves to be considered in two points of view. While it admits a clear, incontrovertible right in the mother country, to have regulated commerce with the colonies by the imposition of duties, it is a negation of the power for the purposes of revenue; and the very attempt to exert it, produced, in its consequences, the most fatal effects to her—no less than the establishment of their independence. How much more so, then, are the dangers to be apprehended in a republican form of Government, prescribed in its action, with limited powers, when one is exercised, not merely of doubtful authority, but, in the opinion of many, a downright and palpable violation of the constitution itself?

It was not the three-penny tax upon tea, considered as oppressive by the colonies of this country, which led them to resistance and independence; but the principle asserted, to tax them for the purposes of a Government in which they had no participation, and for the benefit of a people with whom they had no common interest. It was not the twenty-shilling ship money tax that was held grievous by the people of England, which Hampden resisted, and finally brought Charles to the block, but the principle involved, the violation of Magna Charta, which secured to every Englishman his liberty, his property, and every thing that was dear and valuable. While speaking thus of the rights of British subjects, I am but vindicating those of the American citizen, and let me not be subjected to the unwarrantable imputation, as my colleague (Mr. RANDOLPH) was the other day, of taking sides with aliens and foreigners. What was the case there? A discretionary power, contended for on the part of the crown, to tax the people to any extent, without the consent of Parliament, under the pretext of providing for the general welfare. What is it here? A discretionary power in Congress to tax them to the same extent, with no other restraint than the responsibility which they owe to their constituents. The right of Parliament, in this respect, has never been controverted, but that of the king was, and successfully, too, by the reversal of the attainder of Hampden, which a corrupt bench, in corrupt times, and under the influence of the crown, had not the firmness and



Ann., 1828.]

Tariff Bill.

[H. OF R.]

independence to resist. But, Mr. A. said, he never expected to hear the supremacy, the omnipotence of the Parliament of Great Britain, claimed for the Congress of the United States. If the power be admitted, to the extent contended for by gentlemen, he had no hesitation in saying, that this Government was, to all intents and purposes, a consolidated one; that, so far from being a charter of delegated powers, it was a monarchy in disguise; that it was any thing a majority of Congress might choose to make it. As to the Supreme Court ever declaring a law of Congress unconstitutional, which accumulates power in the Federal head, it was what he never expected to see. When speaking, therefore, of this Government being one with limited powers, he meant something more than "enumerated" merely, which seemed to be the opinion of some gentlemen, unless they were pleased to consider, by the enumeration of powers, the exclusion of all others, not enumerated, which were reserved to the States respectively, or to the people. This was the principle both friends and opponents had in view at the time of its adoption, and upon which the contemporaneous expositions, as well as judicial decisions, profess to have gone ever since. The ninth and tenth amendments to the constitution were made in order to secure it more effectually, and to allay the apprehensions of those who entertained doubts upon the subject. Judge TUCKER, in his commentaries upon Blackstone, who wrote at a time when the principles of the Government were considered as settled, and may, therefore, be relied upon as an authority, after alluding to the clauses restraining the powers given, says: "The sum of all which appears to be, that the powers delegated to the Federal Government are, in all cases, to receive the most strict construction that the instrument will bear, where the rights of a State, or of the people, either collectively or individually, may be drawn in question." It is the only sound doctrine that can obtain, consistently with their interests and safety; because, as all power was originally derived from them, whenever these are likely to be affected by the usurpation of powers, or by the exercise of doubtful ones, the idea of a liberal or enlarged construction should be excluded. Chief Justice MARSHALL, in the case of *Gibbons vs. Ogden*, lays down the rule, as generally conceded, that "the sovereignty of Congress, though limited to specified objects, is primary as to those objects," with no other limitations than those prescribed in the constitution. It is then an instrument, not merely of enumerated, but of limited powers; by which I mean, powers expressly confined to specified objects, sometimes general in their character, at others restrained in the manner of their exercise. This view is more strongly confirmed by the Federalist, which admits, in unqualified terms, "that the States will retain all pre-existing authorities, which may not be exclusively delegated to the Federal head."

When gentlemen, therefore, speak of precedents, let them go back to fundamental principles, to constitutional authorities, and not abide the decisions of legislative enactments merely. There are occasions when it would be as unwise in Congress to execute powers that are given, as it would be dangerous to attempt the exercise of those which are prohibited, or of a doubtful character. There are cases which neither the decision of this House, of Congress, nor of the Supreme Court in the bargain, can ever determine, but must be left to the high contracting parties—the States themselves—to settle, peaceably, if they can, but forcibly, never! There is no umpire between them and their rights. Forbearance, justice, a mutual respect for the authorities of each other, can alone be appealed to, to reconcile conflicting interests. When these ends fail, and it becomes necessary to apply force, after destroying the moral energies of the people, to execute your laws, that moment is this Union at an end—dissolved into its original elements!

Mr. A. said he did not mean to blink the question, but to meet it fairly and openly, and, if he could, to vindicate the violated purity of the constitution. He knew that it was unfashionable to speak of the constitution here, unless it be to get power by implication; that it had become a by-word and reproach, particularly when emanating from the quarter of the country which he represented; and the man who did it, ran the risk of subjecting himself to the gibes, the sneers, the contempt, of some one or other. But he cared not for that. He had a duty to discharge to himself, to those who had sent him here to guard their rights and interests, and he should do it to the best of his abilities, cost what it might, regardless of the opinion of this or that party. Whenever views of this sort were pressed upon the House by any one from that State, it was immediately said that the sceptre had departed from her, and she was now for tying up the hands of the Federal Government. He rejoiced that it had; and, unless it should be used more to the advantage of the people, than when recently held, he trusted it might never return. Virginia was now, where she had always been—against power, contending on the side of the weak, not the strong; and, if she chose to give up her principles—to lie down and worship the Golden Calf—to become a suppliant at the throne of Majesty, as many of the States now were—like the sons of Samuel, who departed from the ways of their father, to go in pursuit of other gods, kings, and monarchies—why, be it so! He should have "no part or lot" in the business: for the day of retribution would come when she would be "scourged with scorpions."

Sir, it is contended that the power to protect domestic manufactures is derived from two clauses in the constitution—"to regulate commerce, and to raise revenue;" neither of which, in my humble judgment, confers it: al-



though one, if clearly shown, would have been sufficient. It is, however, no new opinion, and stands supported by the authority of the present Secretary of State. In alluding to the course which Virginia had pursued in relation to this subject, he took occasion, while on an excursion to the western country during the last summer, to express himself in the following style of derision. Speaking of the opponents of the tariff, he says: "Availing themselves of the irritations and divisions incident to a late contested election, and enlisting under the banners of a distinguished name, they have taken fresh courage, and assail the further progress of our manufactures with renovated vigor. Prior to that event, they had contented themselves with controverting the policy of encouragement; and no statesman in Congress had been seen bold enough seriously to question the right of Congress to afford it. But now the Legislature of a distinguished State, after long deliberation and mature consideration, has solemnly resolved that Congress does not possess the power to counteract foreign legislation by laws of self-preservation. It is delegated by more than one clause in the constitution. Under the authority to regulate commerce with foreign nations, we have seen the power exercised to suspend, for long and indefinite periods, commercial intercourse with all nations, and more especially with Great Britain and France. Under another clause, also full and explicit, the power is granted to lay imposts, without limitation as to amount, and has been exercised far beyond the wishes of the friends of the American system to apply it."

Now, sir, it must have been known to that gentleman, who could not have forgotten all that transpired during the session of Congress in 1824, that two of my colleagues, (Mr. RANDOLPH and P. P. BARBOUR,) in the debate on the tariff of that year, expressly contended that it contravened the spirit, if not the letter of the constitution, and was therefore equally a violation of it. Mr. R. said: "I do not stop here, sir, to argue about the constitutionality of this bill; I consider the constitution a dead letter; I consider it to consist, at this time, of the power of the General Government, and the power of the States: that is the constitution. If, under a power to regulate trade, you prevent exportation; if, with the most approved spring-lancets, you draw the last drop of blood from our veins; if, *secundem artem*, you draw the last shilling from our pockets, what are the checks of the constitution to us? A fig for the constitution!" In another part of his speech, which was in answer to Mr. Clay, he farther observed: "But we are told this is a curious constitution of ours: it is made for foreigners, and not for ourselves; for the protection of foreign, and not of American industry. Sir, this is a curious constitution of ours, (said Mr. R.) and if I were disposed to deny it, I could not succeed. It is an anomaly in itself. It is

that supposed impossibility of all writers, from Aristotle to the present day—an *imperium in imperio*. Nothing like it ever did exist, or possibly ever will, under similar circumstances. It is a constitution consisting of confederated bodies, for certain exterior purposes, and, also, for some interior purposes, but leaving to the State authorities, among a great many powers, the very one which we now propose to exercise: for, if we were now passing a revenue bill, a bill the object of which were to raise revenue, however much I should deny the policy, and however I could demonstrate the futility of the plan, I still should deem it to be a constitutional bill; a bill passed to carry, *bona fide*, into effect, a provision of the constitution, but a bill passed with short-sighted views. But this is no such bill. It is a bill, under pretence of regulating commerce, to take money from the pockets of a very large, and, I thank God, contiguous territory, and to put it into other pockets." In reply to Mr. McLANE, he remarked: "It costs me nothing, sir, to say that I very much regret that the zeal which I have not only felt, but cherished, on the subject of laying taxes in a manner which, in my judgment, is inconsistent, not merely with the spirit, but the very letter of the constitution, should have given to my remarks, on this subject, a pungency, which has rendered them disagreeable, and even offensive, to the gentleman from Delaware."

My colleague (Mr. P. P. BARBOUR) went more at large into this view of the subject, and showed his decided objection to the bill, upon constitutional grounds. They are presented in a manner too forcible to have escaped observation, and I take leave to refer to them in his own words:

"As far, sir, as this bill is designed to give encouragement to manufactures, or even, if you please, to national industry, in general, I would vote against it, for another strong, and, in my estimation, decisive reason. And here, Mr. Chairman, I am about to derive an argument from the constitution. I trust I shall not press upon the confines of political metaphysics. The constitution gives to Congress the power to lay and collect taxes, duties, imposts, and excises. This bill proposes to lay and collect duties, and, therefore, I shall not undertake to say that it is a violation of the letter of the constitution. But this I do mean to contend, and I think I shall be able to prove, with as high an approximation to demonstration as moral evidence is capable of, that this bill does violate the spirit of the constitution. The power to impose taxes, duties, &c., it will not be denied by any gentleman, was given to us for the purpose of raising revenue—which revenue is to be applied to the ends pointed out in the constitution. Now, sir, as far as, by this bill, it is proposed to encourage manufactures, or any other department of industry, we shall be using this power, not only not for the purpose for which it was given, but for another,

APRIL, 1828.]

Tariff Bill.

[H. OF R.]

and a different one, and, as I shall attempt to prove, one which will defeat that for which the power was given; and then this question presents itself: whether we do not, in effect, transcend the limits of our legitimate authority, as much by the exercise of a granted power for a purpose for which it was not granted, as by the exercise of a power not granted? I answer, that we do. As no general reasoning strikes the mind as forcibly as examples, I will illustrate my proposition by putting some analogous cases. Congress has power to borrow money. Let us suppose, that the capitalists of this country were, by petition to this House, to complain that, in consequence of the general languor of the commerce of the world, they could find no longer any mercantile investment of their capital, which would yield them any tolerable profit, or, if you please, any profit at all; and, therefore, they called upon us to borrow some millions of money, at any given rate of interest. Let us suppose our finances to be in such a situation as not to need it, and yet, to save these capitalists from sinking, we accepted their proposition under our power to borrow money. Let us suppose that Congress, impressed with a belief that the importation of certain articles of luxury was injurious, either to the wealth, the morals, or the simplicity of the manners of our people, with a view to arrest the importation of such articles, imposes very high duties, not at all with a view to revenue, but for the avowed purpose of prohibition, and high enough to produce that effect; and that this was done under the power to lay duties and excises, by which, in effect, we should pass sumptuary laws. I could go on, sir, multiplying examples of this kind, with much more ease than they could be answered. These are sufficient for my purpose. In each of the cases which I have here put, it might be affirmed, with just as much propriety as in the present, that we were exercising powers which were clearly given; yet, every man would admit that we were abusing those powers. And why, sir? For the simple reason that we were using them for purposes for which they were not granted; and let me ask, sir, whether the same objection does not apply here? If, as must be admitted, the power to lay duties were given solely to raise revenue, surely when we apply that power, not for that purpose, but for another, and that, too, which defeats the legitimate one, we are exercising that power for a purpose for which it was not granted."

Such were the opinions of these gentlemen on that occasion, and whether they deserve to rank as statesmen, I leave for the American people to determine.

I know it may be said, that no duty upon imports has been, or can be laid, but must protect, in some degree, domestic manufactures; and hence is argued its constitutionality. But, I take it, there is a wide difference, in a moral point of view, between the direct and consequential operation of a power. Congress has

power to declare war, but it is presumed it will be done for some justifiable cause, known to the law of nations. The effect, and consequent measures thereupon, would be, to protect domestic manufactures. Yet, will any one pretend that it is a good or justifiable cause, in virtue of the constitution, to go to war for that purpose? And still, I think, there is as strong, if not a stronger reason for it, than in the present case; because the power of declaring war is given generally, without restriction, save the common sense of mankind, and the common law of the world. Again: Congress can, under particular circumstances, declare a non-intercourse, lay an embargo, as an act of retaliation—a war measure—I take it, preparatory to such a state of things, or as a security against it. But surely not with the view to regulate, when it would be to destroy commerce altogether; much less to foster and protect domestic manufactures; although in its consequences it would have that effect. And yet, why not, if the arguments of gentlemen be correct? No one, in his senses, will contend, that Congress, in time of profound peace, can, constitutionally, cut off all intercourse with foreign powers, under the idea of regulating commerce, which pre-supposes its existence. Still, the extent of the argument goes that far. It is one thing to regulate; it is another to destroy. The effect of regulation may prove destruction, but the purpose for which it is done, must be a legitimate one. It is mistaking a power for its effect, its consequences, and reasoning accordingly. The protection of domestic manufactures is a substantive power, and not among the enumerated articles in the constitution; on the contrary, it was proposed as one of the powers to be given; but we look for it in vain throughout the instrument; it is nowhere to be found. Among the powers offered to the consideration of the convention, for their adoption, is the following: "To establish public institutions, rewards, and immunities, for the promotion of agriculture, commerce, trades, and manufactures." This view is further supported by the Federalist, in No. 84, considering it a subject belonging exclusively to State regulation. In speaking of the revenue power, for national purposes, Mr. HAMILTON says: "The expenses arising from those institutions which relate to the mere domestic police of a State, to the support of its legislative, executive, and judiciary departments, with their different appendages, and to the encouragement of agriculture and manufactures, (which will comprehend almost all the objects of State expenditure,) are insignificant, in comparison with those which relate to the national defence." These are authorities for gentlemen, such as I am disposed to respect, because they show the intention of those who framed the constitution, and are not founded upon acts of legislation merely, which may be the circumstance of caprice, of interest, of party views, adopted without due deliberation,

or a proper regard to the principles of the constitution.

With these evidences before my eyes, I should consider myself as having forfeited every obligation to the constitution, were I to disregard its commands, and most obvious meaning. We are not permitted, in the face of such facts, to entertain opinions, where all doubts are removed upon the subject. And, if gentlemen deem the encouragement of the domestic industry of the country an object of such high importance, let it be done consistently with the provisions of the constitution, by such States as may desire it, obtaining, in the first place, the consent of Congress to lay duties on imports and exports, where the burdens would be felt by those who wish the benefits. I might, moreover, answer the question, and say, of this, as of all other measures presented to the consideration of Congress, that its power can extend to them for national purposes alone; and, by national, I mean Federal, since it was a term repudiated by the convention, and United States substituted in its stead. And this is the rule laid down by Chief Justice MARSHALL, in the case of *Gibbons vs. Ogden*, to which I subscribe in the fullest extent, when honestly exercised. In speaking of the inspection laws, quarantine laws, the internal commerce of a State, turnpike roads, ferries, &c., admitted to be clearly reserved to the States, he says: "If the legislative power of the Union can reach them, it must be for national purposes; it must be where the power is expressly given for a special purpose, or is clearly incidental to some power which is expressly given." Where is to be found the "special purpose," I may ask, for which the power contended for has been granted? Nowhere. How, then, does it become necessary to carry into execution an express power that it can be claimed as an incident? It is not the regulation of commerce with foreign nations, nor among the several States, with which you pretend now to have any thing to do, any more than to lay taxes or duties for the purposes of revenue. A tonnage duty is as much a tax as a duty upon imports. It has, however, never been imposed under the taxing power, (although it may, whenever taxes become necessary, Congress being unlimited as to the manner and subjects of taxation,) but under the power to regulate commerce. And so, where you have power to do a particular thing, it does not follow that you can do a different thing, however remotely connected with it. Nor, that you can resort to different powers, to sustain it by implication; for, there is scarcely any thing but what may be resolvable under one or other of the powers in the constitution, as an incident, by construction.

Sir, if Congress can constitutionally pass this bill, it can assume complete legislation over the subject, incorporate the companies, and do any thing else which may be calculated to promote their interest.

I have, sir, as I intended, considered this subject in one point of view only; I would not deign to place it upon any other ground, nor do I think any gentleman should, who regards the happiness of this Union, or the sacredness of the constitution. If we cannot stand here, as the gentleman from South Carolina (Mr. HAMILTON) said, some days since, we can stand nowhere. And why stop to argue about a cent upon this or that article, as too high or too low, when millions are at stake. No, sir, I will not. I would rather be guillotined at once, than burnt alive at the stake by degrees. Go to prohibition, as some of the friends avow to be their policy, and then the people will understand you. And is there no resistance, no relief from this yoke which is galling to the quick, and bowing you down to the earth? Yes, sir, the States and the people have the remedy in their hands, and if they fail to use it, they will become, as they deserve to be, to all eternity, the slaves of manufacturers, of monopolists, and capitalists, who are willing to risk the peace, the harmony of this Union, and riot in the oppression of the people.

Mr. HAMILTON said: If I have abstained from participating in this discussion, it has not arisen from the absence of a conviction of the utter injustice of the measure which now seems about to pass this House.

I should most unworthily represent the feelings of my own constituents, if I condescended to discuss the detail of the bill before you. We care not by what rule of division or proportion you settle the contribution which you are determined to levy, on the only portion of this Union which is destined not to participate in the booty with which the bill itself is freighted. I have considered, that I should as little consult the interest as the pride of my constituents, by chaffering for a reduction of this or that duty, and in effect telling you that however grossly we deemed the charter of this confederacy violated, yet if you would rob your injustice of a little of its oppression, we would bear your burdens with commendable philosophy and moderation. No, sir, my constituents believe, as a sovereign party to the compact of this Union, that South Carolina never did confer upon this Government the power to tax the industry of her own citizens for the exclusive benefit of the industry of the citizens of the other States. Relying on the truth of this principle, we disdain to impair its strength, by taking refuge under miserable expedients to supplicate your mercy.

If any bill is to pass this House, to cater for an appetite which seems as insatiable as the vulture of antiquity—an appetite which may be fed, but never can be appeased—I trust, that the one on your table is destined to become a law; because, out of the extreme evil, the remedy is to come: that other and larger portions of this Union than the South, will then be made sensible of the injustice of the system, by feeling its severity.

APRIL, 1828.]

Tariff Bill.

[H. OF R.]

Do not suppose, Mr. Speaker, that I mean to discuss the political economy of this question. No, sir, in an enlightened age, when we appear to have imported a Professor from Germany, in absolute violation of the doctrines of the American system, to lecture upon its lessons—to convict Adam Smith of stupidity, and Ricardo of error, I will not say one syllable upon either the solid truths, or the subtle abstractions of this much-contemned science, more especially in the presence of some statesmen, who seem to glory in their utter ignorance of its principles, as a matter of just and honorable pride.

If, sir, I have neither risen to discuss the general principle or the practical details involved in the bill, or those views of the constitution by which your power to pass it is absolutely denied, you may well ask, for what I have risen. Not, sir, to signalize the thriftless effort of reasoning, when argument has been exhausted though error has not been subdued; not, sir, to combat that mania which has fastened upon the question of how much the poor man is to be taxed for the benefit of the rich—the cunning stratagems of another question, on whom the pelf and power of this Government shall fall—but to enter the firm and unfaltering protest of the freemen I represent, against this whole system of restrictive or prohibitory imposts; which we consider as originating in a radical misconception of the powers of this confederacy, and leading to a ruin no less certain than irreparable, to our interest—interests which are unchangeable as the physical laws of our soil and climate.

Shall I ask you to pause? That is too idle. Shall I ask you to relent? That, indeed, would be vain. But let me entreat you to listen, when I say that this remonstrance comes from a State which, in proportion to her population and the extent of her surface, has of all others in this Union, the richest and most varied staples; which, nevertheless, by the process of a tariff of rapidly increasing and rapidly exhausting high duties, is fast sinking into that condition in which it is no treason to God, if it is to man, to implore him to tell us how it comes to pass, with his bright sun pouring its genial torrent on our plains, quickening into life at once the products of the temperate zone and the fruits of the tropics, that we are growing poor, even amidst the abundance of his blessings? The voice of God is only to be heard in the truths which he reveals. Through these he tells us, that the current of these blessings is turned, by the pernicious hand of Government; that what he makes simple, it is the pride of man to make complicate; what he makes good, it is the selfishness of man to make evil; and that we are sinking by a perversion of those mighty laws of production, which signalize, as first principles, the providence of his beneficence. Let any man look at the State whose humble representative I am, and say that this is not true. With exports

that have averaged, for the last thirteen years, at least nine millions of dollars, which ought to have purchased, in the ordinary profits of exchange, at least ten millions of imports, we are nevertheless becoming hourly more impoverished. The solution of our ills is to be found in the operation of Government. If the consumption of our State of articles, paying a duty at your custom-house, is equal to eight millions of dollars, annually, we pay at least, out of these eight millions, two millions in tribute to "your American System." Whilst this tribute is levied in a manner the most burdensome, it brings with it no requiring or redeeming benefit. The moisture extracted from the parched and suffering earth, does not return, in refreshing showers, to pay back, with accumulated blessings, its temporary exaction. No, it is gone forever; and the only miracle to be considered is, that a State, with so small a population as South Carolina, should have been able to pay, since the late war, at least 25 millions of dollars, in the undeniable shape of a bounty to an industry, no part of which is exercised within her own limits.

Sir, the surfeit which this House has had of statistical details, admonishes me of the propriety of abstaining from the financial calculations, which are at hand, to demonstrate this position. An average duty of only 30 per cent., for the last 18 years, on only eight millions of imports, annually consumed in South Carolina, would justify something more than this estimate, which rests on the great principle of political economy, that, in the long run, the imports of a country will be equal to her exports; and although the exact measure of the former is not furnished at the custom-house at Charleston, because a vast proportion—perhaps seven-eighths of the articles thus consumed—come coastwise into our State, and the duties are collected in Boston, New York, or Philadelphia; nevertheless, they are refunded by the consumption of South Carolina. The tax, thus levied, returns to the commercial and manufacturing States, in the shape of a direct bounty.

We have at length reached a crisis from which, in surveying the intolerable evils of the past, they are in no degree mitigated by the prospects of the future. To this system, mis-called American, there seems neither suspension nor limit. The procurement of one exaction wrung from the consumers of the country, only justifies a fresh application, until our whole foreign trade is threatened with utter ruin by the steady march of a bigoted spirit of monopoly, to that point at which it hopes to reach its ultimate reward, in complete and absolute prohibition. In the progress of the curse, we believe a death-blow is aimed at the most valuable of all our staples. We consider that it is only through imports that our cotton is to be purchased; that, deprive us of the foreign market for this prime source of our wealth and comforts, and three-fourths of the amount

of this staple must remain on our hands, or cease to be produced; for even the benumbing paralysis of an approaching evil, has not so stultified us that we are not able to perceive that the American manufacturer of cotton, who requires a duty varying from 50 to 120 per cent., to protect him at home, has no means of sustaining a competition on equal terms abroad; and that, in the end, the only market which will be left for the most beneficent and stupendous staple of the South, will be the limited one furnished by the domestic consumption of our country, which scarcely reaches one-fourth of its present production. These apprehensions are justly aggravated by a well-founded conviction of the present and increasing ability of Great Britain to obtain, in those countries in which she will be furnished the only market for the manufactured article, the requisite amount of the raw material. These calamities, we think, you are about to bring upon us by a perversion of the power of taxation, which was wisely limited to the necessities for revenue; and that your scheme of polity violates every just interpretation of what the "general welfare" really is, by sacrificing the interests of more than one-third of the citizens of the United States, in the threatened ruin of three-fourths of the most valuable staples for exports of our whole country.

To say that we see the approach of these evils, and that seeing them we do not feel acutely, would be something worse than the affectation of moderation. Sir, it has produced among our people not only a feeling of deep and settled discontent, but a belief of the total disregard of every thing like justice in a majority acting under either deluded views or injuriously selfish motives. Our discontent has not broken out in violation of the public peace, in combinations to obstruct the execution of the laws, or in the organization of conventions, with the cunning of working by double tides the double purposes of ambition and avarice. No, our people have met peaceably and constitutionally, to petition you in firm, yet respectful language, to stay your injurious hand. Although disregarded, your table groans with the weight of their remonstrances. Do not, however, mistake a lingering hope that you will yet be just, a respectful patience for your decision, for an insensibility to their interest or their wrongs.

Sir, I am incapable of holding out a threat to this House. I would not do it, from policy, even if I were not restrained by the higher considerations of self-respect, and a belief that I should stand rebuked by the public sentiment of my own countrymen, who are themselves too brave not to despise the poor stratagems of sheer bullying. There is, however, surely, no lack of a proper caution, that on my public and private responsibility, I shall say to you, that it is the clearly ascertained "authentic sense of public opinion" in South Carolina, that from an irresistible physical and moral

destiny, we consider you are coercing us, to inquire, whether we can afford to belong to a confederacy in which severe restrictions, tending to an ultimate prohibition of foreign commerce, is its established policy? That, whatever may be our religious veneration for this Union, you are compelling us to ask ourselves, when you strike at our bread, to which we owe the highest obligation, the law of God, the law of nature, the law of necessity, or to that of artificial and political association? We tell you, that we love this Union; that we have sacrificed not a little to it, and that nothing but your injustice and unkindness can drive us out of it; that we will bear, and have borne, for its honor and security, more than our share of its burdens; that, with scarcely a single pecuniary interest which was violated by the mother country, we were the first to send our sympathy, and to pledge our lives and fortunes, in the quarrel of that then Roman colony, where the cradle of the revolution was first rocked; that, in our second contest for seven years, the whole industry of our State was palsied by a war, and restrictions worse than war, in which we had not even a remote local concern. We could bear all this, because our tribute was paid to the real honor and solid independence of the country, not to cupidity wearing the mask of patriotism!

The gentleman from Maine, (Mr. SPRAGUE,) in justly and philosophically descanting on the sensitiveness of a free people when wronged by oppressive taxation, told you that a tax of three-pence on tea, produced that mighty revolution, by whose success we have now a right to be here. But the gentleman seemed to shun the irresistible and inseparable moral of his own illustration. I will adopt it. Yes, sir, I will adopt it; because I wish to commit treason against this constitution? No, sir; because it furnishes a lesson of soberness and truth. It is right that the arrogance of power should sometimes be softened by those instructive memorials of humility, which it is the business of history to teach. To be supposed to be weak, and to be the object of injustice, are too often one and the same thing; and I have no doubt, that many sagacious and patriotic stockholders, in some one of the vast corporations which are to be pampered with larger profits by the nourishment of this bill, console themselves in the belief that our presumed weakness supplies an ample indemnity for your oppression. Lord Suffolk, one of the most insulting and arrogant of the persecutors of the colonies during our revolution, said in his place, that "he would not deign to inquire where a Congress of vagrants were to be found;" but as it has been well said, he was very glad soon after to despatch a secretary out of his own office to find these vagrants, without knowing where his own generals were to be discovered, who were sent out to subdue them.

Is this treason, sir? I hope not. I do not design it as even a bare threat. The only les-

April, 1828.]

Tariff Bill.

[H. OF R.]

son I mean to enforce is, that there is sometimes a fatal delusion is speculating too much on the weakness of those whom we intend to oppress. Is it, moreover, treason, sir, to tell you that there is a condition of public feeling throughout the southern part of this Confederacy, which no prudent man will treat with contempt, and no man who loves his country will not desire to see allayed? And have you to be told, "that there are critical moments in the fortunes of all States, when they who are too weak, perhaps, to contribute to your prosperity, are strong enough to complete your ruin?" God forbid, sir, that my language should be mistaken. I neither wish to indulge in disaffection nor insulting defiance; but I should consider myself as treacherous to every obligation which I owe, both to you and to those whom I represent, if I attempted to disguise the united sentiment which animates, with the pulsation of one bosom, a State second to none in this Union, for her elevated national feeling and devoted patriotism.

Let me, sir, before I conclude, say one word to the political friends with whom I am proud to be associated in generous and zealous alliance on another question of great, and only inferior importance to the one before us. I regret, deeply regret, the excitement under which they are acting. Stimulated into a mistaken, but honest zeal, for interests that only require to be let alone to thrive, by the deep designs of an opposing party, they seem to have been hurried on in a sort of rival career with their opponents, of not who should equally adjust the relative interests and wants of our country, but who should feed highest the fever and paroxysms of popular delusion. I have met with but one melancholy parallel to this: which is to be found in the history of one of the most disgraceful acts which stain the statute books of Great Britain. I allude, sir, to the law passed during the reign of King William, against the Catholics. It was known to the Tories that this illustrious monarch was the friend of religious toleration, and that a part of the very army with which he had subdued the last and most infamous of the Stuarts, was composed of Catholics. The Tories therefore introduced this bill, for the purpose of compelling the king, as it has been truly said, either to violate his principles of toleration, or incur the odium of protecting papists. They therefore made it as oppressive and as offensive as possible, that it might be defeated. The then Court party seeing this, returned the bill filled with still greater absurdities and rigors. "And thus," (as one whom we may well call the most philosophic of historians, informs us,) this act, loaded with the double injustice of two parties, neither of whom intended to pass what they hoped the other would be persuaded to reject, went through the legislature contrary to the real wish of all parties; and in this manner, as if playing with balls and counters, made

sport of the fortunes and liberties of their fellow-creatures."

It would be alien to the purpose for which I rose, to make a detailed application of the parallelism of this case. I put its moral, however, to the candor and good sense of those who are best acquainted with the history of this tariff, from its first conception at Harrisburg, through all the subsequent stages of its existence, down to the present most inauspicious moment. I will, nevertheless, ask, whether it has not, in fact, been loaded with the double injustice of both parties, and whether a compromise has not been effected, at a point by which each has been relieved from the apprehended odium of its defeat, at the price, however, of making sport with "the fortunes and liberties" of a portion of the people of this Confederacy? I know, sir, that I shall be liable to the charge of seditious violence, in the ethics of those who suffer "under severe fits of moderation," to use the phrase of one who sees far into human things, and expresses well all that he sees. I shall, moreover, be especially obnoxious to the censures of those who are to fatten on the booty that is to be extorted by this bill. Those who are to profit by injustice, are always the exclusive friends of good order, and cherish a virtuous abhorrence of the treasonable complaints of those who are to suffer. That we should bear, without repining, every exaction which cupidity may levy, I have no doubt, in the esteem of some, would be the most sanctimonious oblation we could offer on the shrine of this Union. But, after all, is it wise to push a free people to the extremity of inquiring whether this thing is just, and whether it is right that it should be borne? Our Confederacy was surely not formed for the agitation of such heart-burning and perilous questions.

Sir, one of the great masters of human knowledge, who with a ken little short of the spirit of prophecy, perceived some of the causes of the success of our revolution in the very turn of thinking of our people on the subject of taxation, has told us, that "Liberty inheres in some sensible objects; every nation has formed for itself some favorite point, which, by way of eminence, becomes the criterion of their happiness. It happened that the great contests for freedom, in this country, were, from the earliest times, chiefly upon the question of taxing. It is not easy to make a monopoly of theorems and corollaries. The colonies draw from you, as with their life-blood, these ideas and principles. Their love of liberty is fixed, and attached, on this specific point of taxing." And so, sir, it has continued, down to the present day, in our transit from colonial dependence to sovereign States. This habitual sensibility, which belongs to a free people, you have aroused, by observing no sort of moderation in your objects, until you have fixed the conviction in the public mind, that the difference between "taxation without representation," and taxation with representa-

tion, in violation of the spirit if not the letter of the constitution, is too idle, in the abstract, to mitigate the evils which, in practice, are common to both; and, depend upon it, that it will require a more ingenious and talented casuist than even such a man as the pensioned author of "Taxation no Tyranny," to satisfy our people that you are not doing the same thing, in a different form, with the superadded burden of an amount of impost, which never arose even in the imagination of Grenville and of North, to stimulate their cormorant appetite for American revenue; aggravated as all this is, by the irrepressible sentiment, that you are breaking the faith of that equal compact by which this Union can alone hope to live—"the fountain from which its current runs, or bears no life."

Sir, there may be those who are wise enough to despise, and courageous enough to brave, the settled discontent of a people who, at least, believe themselves to be free; and there may live that man, for aught I know, sufficiently base to desire to put one State out of joint, in this Union, by goading, through insult and injury, her people into rebellion, for the pious purpose of sustaining a particular dynasty, and its anointed succession. To the first, let me point to the solemn lessons which history unfolds; to the last, I know not what to say—for his illustrious infamy would deserve something more than the cheap ignominy of a gibbet.

But I trust, sir, that this cup may pass from us: that in our firmness and enlightened patience—not base submission—and in your returning sense of justice, we shall find our remedy and relief: that the spirit of concord and affection may again be breathed into this Union, animating it with the durability of eternal life. But, if an adverse destiny should be ours—if we are doomed to drink "the waters of bitterness," in their utmost woe—if we are doomed under a tyrannous legislation, to be reduced, in effect, again, to a condition of colonial vassalage, by your compelling us to purchase, in one quarter of this Union, all that we may consume, and of selling all that we may procure by the sweat of our brow to the same favored portion, you may rely at least on one thing—that, in a juncture so full of difficulty, South Carolina will be found on the side of those principles, standing firmly, on the very ground which is canonized by that revolution which has made us what we are, and imbued us with the spirit of a free and sovereign people.

Far be it from me, sir, short-sighted and unwise as I am, to indicate the crisis when she ought to act. A more humble office will be mine. It will be sufficient for me to know, that—among the least worthy, but not the least devoted, of her children—where she is, there will I also be, with hostages of an offspring that I love, and with a heart which, I trust, in all due humility, will not falter "when resistance itself becomes a virtue."

Mr. TURNER said: Mr. Speaker, at the time the constitution was formed, that mighty compact, under the authority of which we are now legislating, the great difficulty which presented itself to the convention, and which threatened dissolution more than once to that band of patriots, was the conflicting interest of different States. Each one in his representative capacity, was unwilling to part with any more of that power, which then belonged to separate and independent sovereignties, than was absolutely necessary to form a government. Under this state of things, a system of compromise was formed, which was, under its then construction, rendered sufficiently palatable to be adopted by the whole. Whether such a result could be obtained at this time, with a knowledge of the course which legislation has taken, may be matter of speculation; but I do not hesitate to affirm that it could not. No, sir, could not—unless that construction, for which we now contend, was secured beyond the possibility of a doubt. For with this construction, it was matter of doubt and difficulty with some: without it, it would have been rejected by all the Southern States. Never would they, with a perfect knowledge of the fact, have consented to place themselves under the control of a Government that had the authority, or if having the authority, would exercise it, to impose a tax, that is to operate so unequally on different sections of the Union. But, sir, we are told by gentlemen that we are not prohibited from manufacturing—that we may avail ourselves of all the great advantages that are to flow from this bill: but I will tell them that we are prohibited, not by any law, but by that which is much more powerful than any law, the absolute inability to carry them on. The gentleman from Rhode Island (Mr. PEARCE) who addressed the House yesterday, was so kind as to point out the superior advantages of the South as a manufacturing country; but I will tell that gentleman after returning him my thanks, that I believe I know something more of this country than he does. We are, sir, deficient in all the great essentials; we have not navigation to any great extent in our interior country; neither have we water power sufficient; and at the falls of our great rivers where such establishments could be formed, there is not health; and we are moreover deficient in that greatest of all essentials, a moneyed capital: besides, we are prohibited even by our prejudices. Agriculturists we are, and agriculturists we must remain, so long as we have a sparse population, and the peculiar species of property we have among us. It is in vain that we may contend against these difficulties, and any attempt to counteract them, will end in ruin and disappointment. We cannot contend with our Northern brethren; and I hesitate not to assert what is already sufficiently well known, and a knowledge of which fact, does not, I fear, render them the less ardent, in urging these measures on the consideration of Congress.



APRIL, 1833.]

Tariff Bill.

[H. OF R.]

Do not the numerous memorials laid upon our tables protesting against these measures; and emanating from the people themselves; do not the resolutions, passed by our different State Legislatures, speak a language that should be listened to by this House? Even those sections of country more immediately interested in the passage of this bill have not been silent in protesting against it; and it is an evidence of what I believe to be true, that the body of the people in every portion of the United States, if correctly informed, would be opposed to it. We all know with what facility mechanics of every description can combine and concert their plans. They thus have it in their power to give an imposing appearance to any set of measures, and the more powerful and wealthy these individuals are, the more imposing will be their representations. But the poor farmer of the North, the humble planter of the South and West, that class of individuals who constitute the foundation of the wealth of all nations, must submit, for the want of that concert and knowledge which alone could enable them to resist successfully the encroachments, the oppressions of those, whom selfish motives have placed in their way. No doubt, sir, there are many to be found who would accept of my property, or any other man's property, if the strong arm of power should take it from me or him, and give it to them. But, sir, do not the laws afford us protection against this outrage? Would it not be an act too bold even for a despot to perform? Where is the difference between this case and the operations of this bill, if passed into a law? Does it not put its hands, I will not say its unhallowed hands, into the pockets of the planter and consumer generally, to give it to the manufacturer? It might be some consolation to the breast of the patriot, to know that this money, which is taken from the pockets of the poor, was to go to the treasury of the country, to discharge the large national debt, with which we are encumbered; but we have the misfortune to know, that it goes to enrich those who are already the wealthiest of the land. Yes, sir, the effect will be, to make the rich still richer, and the poor, poorer. Let gentlemen disguise it as they may, still it is a tax, and an odious tax, because unequal. And when we have gone as far as prohibition will permit us, and in this it must terminate—for its history proves it, and gentlemen have the honor to avow it—I presume we shall be called upon to pass laws, to increase the consumption of the article; perhaps to bury the dead in woollens, or some such law! And I conceive we have as much right to do this, as to do what has been done,—the general welfare may require it, at least, sir, the welfare of ~~the~~ <sup>our</sup> manufacturers.

This Government was formed for great and noble purposes; it was formed upon the principle, that the people should be able to control their rulers; it was formed for the benefit of the whole; it was not formed for a majority to

promote their own views, as their private interest may direct. And, sir, these political schemes, which I conceive to be entirely hostile to our institutions, are doing more to weaken the Union of these States, than any plan that could be devised. Instead of leaving the people to manage their own affairs in their own way, we must administer our medicine most profusely; and God grant that we may not inscribe, on the tomb of our patient, the old Spanish epitaph: "I was well, would be better, here I am." It is but too evident, that both in our General and State Governments, we have too much legislation. Let us pass only those laws that are absolutely necessary, and no more; leave the rest to the people—let nature take its course; this is the correct policy of this Government. For all these fine-spun political schemes, which appear so well in theory, when reduced to practice, nine times in ten bring misery and oppression upon some one portion of the community. Something is left out of the calculation, which was not foreseen—it produces too artificial a state of authority; and the machine ultimately becomes so complicated, that no political juggler, however expert he may be, will be competent to its management. It is upon these principles that I am opposed to all those political measures, which, in a country so extensive as this, where the interest of the people is so diversified, must have a tendency to build up one portion of the community at the expense of the other. For the justice of these remarks, I would instance England, that glorious but unfortunate country, where political legerdemain has been exercised, until their tricks can no longer conceal, that they have brought their country to the brink of national bankruptcy. Yes, sir, that England, and that Ireland, which have been held up to this nation, by the gentleman from Pennsylvania, (Mr. STEWART) as a pattern for us to imitate. Sir, the idea suggested itself to my mind, of a physician who should advise a young, healthy, and vigorous individual to take his medicine, merely because it had afforded relief and perhaps protracted the existence of a worn-out and infirm old man. The advice is bad enough, but to follow it would be perfect madness. There was another part of the gentleman's argument that struck me as being equally remarkable. He dwelt for some time, and with considerable emphasis, on the fact, that England excludes from the list of her imports, American flour, and urges this, as the most excellent reason why we should, in return, exclude British goods. Yes, sir, England oppresses her subjects for the benefit of her landed aristocracy; therefore we should oppress our citizens for the benefit of our manufacturers; she will not permit her subjects to eat cheap bread; therefore, we should not permit our citizens to wear cheap clothing. This is retaliation, I presume, according to the gentleman's acceptance of the term; but it is a policy, against which, in the name of my constituents, I do most solemnly



protest. But even according to the gentleman's own mode of reasoning, upon principles of reciprocity, is it just, is it proper, to exclude English goods, when she takes from us so large a portion of the productions of our soil, our cotton and tobacco, which are almost the only source of revenue to the planter of the South? But this the gentleman considers as nothing, not worth the preservation; and why? Because it is the exclusive production of the South, and some of the Western States; and this is the great secret. Yes, sir, this policy, if persevered in, will make us the Ireland of America. We are to be permitted to drag out a miserable existence, to contribute to the wealth and importance of the North! I will not trust my feelings, to speak on this subject; for, on this floor, it becomes us all to be temperate.

It appears, sir, that we too, like England, must have our schemes; and to render them the more palatable, great names are given—the American System. But gentlemen differ as widely, as to what is the American system, as they do from whence they derive authority from the constitution, to carry on works of internal improvement. One will tell you that this is the American system; another from a different section of the country, will tell us, Oh, no! that this is the American system; while a third will differ from both the others, and present us with what, in his opinion, deserves alone, the name of this great system. Just as the supposed interest of particular portions of country, which gentlemen happen to represent, require, so they speak. What caused the manufacturers of Lyons to exclaim, “Vive l'Empereur,” on the return of the great Napoleon from Elba? Self interest; for they well knew that the presence of Bonaparte would exclude from their country English goods; and that his hostility to England, would never permit their introduction. Yes, sir, it all proceeds from selfish motives; the great American System at last resolves itself into a system of self-interest; and the attempt is made, to render it the more popular, by the influence of a name. Sir, we all know and feel the influence and magic of a name; but the veriest minnow, to whom this bait is thrown, will, I hope, discover too much sagacity to be deceived. The American System! Sir, we disclaim the name; and to denigrate it a system, to use this Government, to promote the views of particular sections of country, would, I presume, be a more correct nomenclature. The true American system consists in the Government not interfering in these matters; in having nothing to do with political schemes, which are calculated alone to promote the interest of comparatively few individuals, and those confined to particular sections of country, at the expense, nay, sir, the ruin, of other portions of the Union.

The flame of this manufacturing mania has been fanned in certain States for political purposes; but the people, among whom there is

too much intelligence long to be deceived, will discover that they have no real interest in these measures; even now it is apparent, from the counter memorials laid upon our tables, that a reaction is taking place. Gentlemen will return to their constituents, and tell them much has been done to promote their interest, that they have given them a tariff. No doubt they will greatly rejoice—but will they not inquire, whether these benefits are to extend to every portion of their country? And must not gentlemen, in candor, admit, that it is to operate oppressively on certain parts of the United States, and that the representatives from those States protested against it, and pointed out the evils that will inevitably flow from it, but we conceived it to be a measure to promote your interest, and in accordance with your wishes, and acted accordingly. What should be the reply of a generous and magnanimous people? If I mistake not their character, they will say, take back your legislation; we scorn to be promoted at the expense of a portion of our fellow-citizens. And I address myself more particularly to the West, whose interest is so intimately combined with that of the South; destroy us, deprive us of our foreign market, and that moment you inflict a vital stab on your own interest. And what have we seen on this floor? Northern members voting for a duty on cotton bagging, to promote the interest of the West. This is readily assented to, for the South alone is to be affected by it; but when they are called upon to vote for a duty on molasses and hemp, all too for the benefit of the West, their zeal receives a sudden check! for should these items be retained in the bill, and it should unfortunately be passed into a law, it is likely they will experience some of the great benefits resulting from the American System. Yes, sir, the West must deprive itself of a market for their stock of almost every description, to obtain the incalculable benefit of making cotton bagging, to sell to those who will be too poor to purchase any thing. It would not do, sir, to call this a plan of a certain description, for other States, besides those of New England, have participated in it.

Let us compare the situation of the North, at this time, with the South; and what a contrast is presented to our view. On the one hand, we behold a dense population—the country in a high state of cultivation—her towns and villages rising, as if by the hand of magic; in short, every thing combining to prove that the country is in a great state of prosperity. Can such a representation be made of another portion of the Union? No, sir, a sad reverse is the reality! We have not our flourishing towns and villages; and instead of the South being in a progressive state of improvement, it is on the high road to ruin. And we present the singular spectacle at this time, of one-fourth the population of a State willing to desert their homes, to seek for prosperity elsewhere; and nothing detains them, but the absolute inability

APRIL, 1828.]

*Tariff Bill.*

[H. OF R.]

to dispose of their property, at almost any price. Those bonds, that nature has thrown around the affections of every one, for his native place, are torn asunder; and the unhappy exile, forced to bid adieu to that home, and that country, which is made dear to him by the unchangeable laws of nature, and of nature's God—by a system of legislation, which, at the time that it inflicts the wound, is kept out of view; yes, sir, I do proclaim, that this indirect mode of taxation is an enigma that the large body of the people do not attempt to solve. At the time he purchases a pound of iron or a bushel of salt, the idea seldom presents itself to the plain, illiterate, but honest and industrious planter, that he is, at that very moment, paying a heavy tax to his Government. He may complain to the merchant of his high prices, but does not often reflect, that his Government forces the merchant to ask these high prices. And were the operations of this system understood by the people, as it is by those who examine these things, I boldly make the assertion, that so far from being engaged in the consideration of a proposition, the object of which is to place new burdens upon the people, we should be more laudably employed in relieving them of those burthens, already almost too heavy to be borne. And is it to be expected, that the manufacturers will ever cease to ask, so long as we shall give? No sir, never! It is sufficient for them that we should give—they will never refuse to receive. I have it from a source, that I value as highly as that from any other, that many of the manufacturers do not wish for any greater protection than they at present enjoy. A higher rate of duties, they justly suppose, will have the effect to throw too much capital in that direction. It is those who are at work on a borrowed capital, chiefly, who come here, and are most clamorous for the aid of Congress. With just the same propriety might an individual procure endorsers, borrow money from a bank, purchase a plantation, stock it, go to work, and then gravely come here, and ask the Government to pay the interest for him. The single fact admitted by the manufacturers themselves, that from the year eighteen hundred and sixteen, ten millions of capital vested in stock of this description, had in twenty four, increased to forty millions, is sufficient to put to flight all their reasoning on this subject. But, even now, when we hear so much of the distressed condition of the manufacturer, we are told that capital is deserting commerce and agriculture to vest itself in manufacturing. Is not this sufficient to convince every unprejudiced mind that it is the best business at this time in the country? Could the Harrisburg recommendations prevail, we should see individuals made rich by the legislation of Congress—for an immediate rise of manufacturing stock would take place; and I cannot suppose that the present holders would be blind to their interest as not to sell out.

Sir, I can compare this recommendation to nothing better than a lottery, and certainly one of the combination order—and like all schemes of this description, the schemers are to draw all the high prizes—or rather to sell the tickets, after the scheme is granted, and walk off with the money.

Yes, sir, I do religiously believe, that owing to the system of legislation pursued by Congress, we are to attribute, in a great measure, the unprecedented depreciation of our property. I know that other, and local causes, have operated towards producing this state of things—I allude, sir, to those moneyed institutions, the evils resulting from which were so eloquently depicted by the gentleman from Virginia, (Mr. RANDOLPH,) whose motion is now pending. These causes combined, have produced a state of things, never before known with us; and I do not doubt, that those, from other slaveholding and consequently agricultural States, will have it in their power, unfortunately, to make similar representations. Then, sir, I will ask, why do those, who already possess most of the advantages flowing from the Union, wish to push things further. Have they not grown into a state of wealth and importance, while the South has remained impoverished? But not satisfied with this state of things, the line which divides our interest must be made still plainer. Pass this bill, and it will be so plainly drawn, that the worst of consequences are to be apprehended. What has caused dissatisfaction, on the part of its citizens, with all Governments? Why, sir, the imposition of unjust taxes; the history of past times will prove this. What caused the separation of these States from the mother country? The attempt only to impose an unjust tax. What was the principal cause of the revolution in France? Unequal taxes. And gentlemen well recollect the insurrection that occurred, even under the administration of our beloved Washington. We should learn wisdom from experience, and beware how we persevere in a system of legislation that may destroy the prospects of this country—that may destroy the hopes of the world. Mr. Speaker, I know it is odious to make allusions of this kind, on this floor—nor is it used as a threat. No, sir, I hope we are far, very far, from anything like disunion; but it is done to impress this House with the opinion, seriously entertained, that if any thing can, the system of legislation pursued by Congress will bring about this catastrophe. I represent those who are devotedly attached to this Union, from motives arising from the noblest principles of our nature—in this, they yield to none; but there is a point beyond which human patience will not endure.

TUESDAY, April 22.

*Tariff Bill.*

Mr. WRIGHT, of N. Y., moved the previous question on the passage of the bill.

H. of R.]

Tariff Bill.

[APRIL, 1838.]

The Speaker put the main question, "Shall this bill pass?" and it was decided by yeas 105, nays 94.

YEAS.—Messrs. Anderson of Pennsylvania, Armstrong, Baldwin, Barber of Conn., Barlow, Barnard, Beecher, Belden, Blake, Brown, Buchanan, Buckner, Buck, Bunner, Burges, Chase, Chilton, Clark of New York, Clark of Kentucky, Condict, Coulter, Creighton, Crowninshield, Daniel, Davenport of Ohio, De Graff, Dickinson, Duncan, Dwight, Earl, Findlay, Forward, Fry, Garnsey, Garrow, Green, Harvey, Healy, Hobbie, Hoffman, Hunt, Jennings, Johns, Keese, King, Lawrence, Lecompte, Leffler, Letcher, Little, Lyon, Magee, Mallary, Markell, Martindale, Marvin, Maxwell, McHatten, McKean, McLean, Merwin, Metcalfe, Miller, Miner, Mitchell of Penn., Moore of Ky., Orr, Phelps, Pierson, Ramsey, Russell, Sergeant, Sloane, Smith of Indiana, Stanberry, Stevenson of Pennsylvania, Sterigere, Stewart, Storrs, Stower, Strong, Swann, Swift, Sutherland, Taylor, Thompson of New Jersey, Tracy, Tucker of N. J., Vance, Van Horn, Van Rennselaer, Vinton, Wales, Whipple, Whittlesey, Wickliffe, Wilson of Pa., J. J. Wood, Silas Wood, Woods of Ohio, Woodcock, Wolf, Wright of N. Y., Wright of Ohio, Yancey—105.

NAYS.—Messrs. Alexander, Allen of Mass., Allen of Virginia, Alston, Anderson of Maine, Archer, Bailey, P. P. Barbour, Barker, Barringer, Bartlett, Bates of Mass., Bates of Missouri, Bell, Blair, Brent, Bryan, Butman, Cumbreleng, Carson, Carter, Claiborne, Conner, Crockett, Culpeper, Davenport of Virginia, Davis of Mass., Davis of S. C., Desha, Dorsey, Drayton, Everett, Floyd of Georgia, Fort, Gale, Gilmer, Gorham, Gurley, Haile, Hallock, Hall, Hamilton, Haynes, Hodges, Holmes, Ingersoll, Isaacs, Johnson, Kerr, Lea, Livingston, Locke, Long, Lumpkin, Marable, McCoy, McDuffie, McIntire, McKee, Mercer, Mitchell of Tenn., Moore of Alabama, Newton, Nuckolls, Oakley, O'Brien, Owen, Pearce, Plant, Polk, Randolph, Reed, Richardson, Ripley, Rives, Roane, Sawyer, Shepperd, Smyth of Va., Sprague, Taliaferro, Thompson of Georgia, Trezvant, Tucker of South Carolina, Turner, Varnum, Verplanck, Ward, Washington, Weems, Wilde, Williams, Wingate—94.

So the bill was passed.

The question then recurring on the title of the bill, Mr. WILDE moved to amend it by adding the words "and for the encouragement of domestic manufactures."

Mr. RANDOLPH opposed the motion, insisting that domestic manufactures meant those which were carried on in the families of farmers, in the fabrication of what used to be called Virginia cloth; and that the bill, if it had its true name, should be called a bill to rob and plunder nearly one-half of the Union, for the benefit of the residue, &c. Let the friends of the bill christen their own child; he would not stand godfather to it. The title was merely *ad captandum vulgus*; like the words of the continental money ridiculed in Swift's verses:

"*Libertas et natale solum,*

Fine words indeed! I wonder where you stole 'em."

The bill referred to manufactures of no sort or

kind, but the manufacture of a President of the United States.

Mr. WILDE, after a brief reply, in which he assented to Mr. RANDOLPH's opinion of the bill, but thought the manufactures in the family ought to be called household manufactures, consented to withdraw his amendment.

Mr. DRAYTON moved to amend the title as follows: Strike out all after "An act," and insert "to increase the duties upon certain imports, for the purpose of increasing the profits of certain manufacturers."

Mr. D. after some general remarks on the injurious and unconstitutional character of the bill, stated the main reason for his desiring to amend the title was, that a decision might be had on its constitutionality, by an appeal to the Supreme Court of the United States, on some case which might arise under its operation. This could not be done if the title remained as it now stood. A declaration by the power which enacted the law that it was intended for the protection of certain manufacturers, would bring up the constitutional question whether Congress could increase the duties on imports for such a purpose.

Mr. HODGES moved to amend the amendment of Mr. DRAYTON, by adding to it as follows: "And to transfer the capital and industry of the New England States to other States in the Union."

Whereupon, Mr. BARTLETT moved the previous question on the title.

The House sustained the call: the previous question was put, and carried; and the main question having been put as follows: "Shall this be the title of the bill?" it was carried without a division.

So the bill was passed, and ordered to be sent to the Senate for concurrence.\*

\* The debate on this Tariff bill is very much abridged, and without loss to the subject, it being the fourth general debate upon the same question within a few years. The years 1816, 1820, 1824, and 1828, saw its regular recurrence; and as each of these debates took place at the last long session before a presidential election, they were obliged to assume, even if there had been no premeditation to that effect, a political aspect, and to connect themselves with the impending election. Before 1816, the tariffs were discussed simply as business measures, and with very little difference of principle, revenue being then the object, and protection to home industry the incident. In 1816, that principle began to be reversed—protection being made the object, and revenue the incident; and in 1824 and '28, that revival of principle, and the periodical augmenting of duties, and the political aspect which the Tariff had assumed, gave deep discontent to the planting States, on which the burthen of the duties chiefly fell. The speeches of their members exhibit the evidence of this discontent; which, in fact, became pervading, and left a large section of the Union under the painful belief that they were injured and oppressed by this branch of the federal legislation. Considerate men, in other sections of the Union, and who had been friendly to the protective policy, especially when it was considered the protection of household industry, (spinning, weaving, and knitting at home,) began to change their views, gave a reluctant assent to the act

APRIL, 1828.]

*Adjournment of Congress.*

[H. OF R.]

WEDNESDAY, April 28.

*Adjournment of Congress.*

Mr. TUCKER, of South Carolina, moved the consideration of a resolution offered by him some time since, with a view of fixing the day of adjournment; and on the question demanded the yeas and nays; which being ordered by the House, stood yeas 112, nays 44.

The resolution was accordingly considered.

*Resolved*, That a committee be appointed, on the part of the House of Representatives, to join such committee as the Senate may appoint on their part, to fix on, and recommend a day on which the President of the Senate and the Speaker of the House of Representatives shall adjourn the present session of Congress."

Mr. TAYLOR, of New York, moved to amend the resolution, by inserting, after the words on their part, "to consider and report what business is necessary to be acted on at the present session, and."

Mr. TUCKER objected to this amendment, and urged the gentleman from New York not to press it.

Mr. HAMILTON moved the following as an amendment to the amendment: Strike out all after the word "Resolved," and insert "That the President of the Senate, and the Speaker of the House of Representatives, be authorized to close the present session of Congress, by an adjournment of both Houses, on Monday, the 19th of May next."

Mr. H. supported his amendment by a few remarks, expressing his fear that this Congress might be reproached as the long Parliament.

Mr. TAYLOR was opposed to the amendment last offered. He adverted to the great length of time which had been consumed in debate, and the very small amount of business done; and insisted upon the propriety of first knowing how much business required attention before the House fixed the length of time necessary to accomplish it. He concluded his remarks, by demanding the yeas and nays, and they were ordered by the House.

Mr. DWIGHT briefly advocated the amendment of Mr. HAMILTON, on the ground that fixing a day certain would expedite the business of the House.

Mr. MARVIN opposed the amendment of Mr. HAMILTON, and advocated that of Mr. TAYLOR. If no regard was to be had to the amount of business to be done, why would not gentlemen adjourn at once, since all were anxious to return to their homes? The House had just passed a bill of a very interesting character, which had occupied it for six or seven weeks—

of 1828, and chiefly upon a calculation of justifiable policy; and determined to change their course, and act upon the old principle—(revenue the object, protection the incident)—after the impending presidential election should be over. The return to the old principle, with economy in the public expenditures, it was believed would remove all just cause for discontent in the planting States.

could they expect that its discussion in the other branch of the Legislature would not take some considerable time? So soon as the fate of that bill should be decided, he should be prepared to take steps towards an adjournment, but not before.

Mr. TUCKER said he would accept the amendment of his colleague if he thought it had the least chance of succeeding. He referred to the proceedings formerly had on the same subject, and objected to the amendment of Mr. TAYLOR as likely to lead to difficulty.

Mr. MCCOY advocated the amendment of Mr. HAMILTON, observing that more business was usually done at the short than at the long session.

The amendment would leave the House three weeks to apply to business, and he believed, in that time, they might, with diligence, get through with every subject of general importance.

Mr. BARTLETT, after a few previous remarks, suggested a middle course, which he could not now offer as an amendment, being restrained by the rules of the House. It was, that the committee should be confined to the House alone, and not made a joint committee; and should be charged to report both on the amount of business, and on a day of adjournment.

Mr. TUCKER had no objection to the latter part of this amendment, but thought that the former would produce delay.

Mr. POLK was opposed to the amendment of Mr. HAMILTON, and in favor of that of Mr. TAYLOR.

The Chair now announced the expiration of the hour allotted to morning business, and proclaimed the orders of the day; when,

On motion of Mr. P. P. BARBOUR, the orders were postponed, and the debate continued.

Mr. BARBOUR then advocated Mr. HAMILTON's amendment, adverting to the reproach which had been cast upon this Government as being a logocracy. He thought the amendment had an important political bearing. If the House went on, continually enlarging the term of its session, the result would at length be, that no citizens would come to Congress but either those whose wealth relieved them from the necessity of attending to their own business, or those whose business at home was of so little value as to render them desirous of an election to Congress as a pecuniary speculation.

He appealed to the House whether the late tariff bill might not as well have been disposed of in four weeks as in seven. He adverted, by way of contrast, to the practice of the British Parliament, in which the discussion of any one subject rarely extended to the third night. No gentleman supposed that the House could get through all the business on the docket. The bills reported by the committees were continually accumulating, and would do so, even should the House vote its sittings permanent. He sincerely wished that the constitution had

fixed the length of both sessions; for he believed the House generally do twice or three times the actual amount of business at their second session, that they do at their first. The excessive prolongation of debate, instead of rendering more certain a correct result, generally operated the other way. When a subject was carefully examined and reported upon by one of the committees, and an argument afterwards had in the House, in which one or two gentlemen on either side presented the leading points in controversy, the House would generally be prepared to act. He referred to the great haste in which bills were usually passed during the last two or three days of the session, and inferred that the House, before the 19th of May, might, if they used diligence, get through the most important bills before them, and those they omitted, would come up, as of course, at the next session.

Mr. MITCHELL, of Tennessee, after adverting to his personal anxiety to return home, insisted that it was, nevertheless, his duty to forego his own wishes and attend to the public business. Should he plead with his constituents that he had neglected it, because he had business at home, they would never say to him, "well done, good and faithful servant," but would order him into "outer darkness." He referred to his experience in the Legislature of Tennessee, which he insisted was a far more dignified assembly than the House of Representatives had lately shown itself to be—as that Legislature never permitted members to indulge in Billingsgate ribaldry. He thought the best remedy for logocracy would be, for the people to strike from the roll of the House the 150 lawyers, who were eternally babbling. He did not include in that remark the gentleman from Virginia, (Mr. BARBOUR,) who was a lawyer of too high an order, to be at all within its scope. He was in favor of the amendment of Mr. TAYLOR, and, in supporting it, adverted to the 848 private bills—many of them of vital importance to the claimants, which yet remained upon the calendar. Should they break up, without attending to any of these, they would well deserve the appellation of the "Rump Parliament." He was opposed to the arbitrary designation of a day, without regard to the business which had to be done. He likewise objected to empowering a committee to digest the order in which bills should be taken up. He thought no favoritism ought to be shown, but the order of the calendar rigidly and rapidly pursued. *Prior in tempore, prior in jure*, was the maxim of the civilians, and ought to be pursued. He concluded with referring to the worn-out soldiers that were knocking at the doors of the House, and whose only hope and resource was in its justice and liberality.

Mr. MARABLE fearing that, if he stayed much longer, he should not get off with whole bones, professed himself anxious to return home, the sickly season approaching; that,

having, during this woollen contest, gained nothing, he might be in the way of fleecing. He belonged to the bloody profession, he said, and though he might not be able to look, with as much composure as some others, on blood and carnage, he could contemplate a corpse with calmness. He was, therefore, not much moved by the declining state of the Revolutionary soldiers, just alluded to, some of whom, now at the capitol, informed them that they had walked forty miles a day to get here, which proved their ability to live by labor, without a pension. He believed the chief object for which gentlemen were to be detained here, was the making of a President, &c., &c.

Mr. CLARK, of New York, replied with some warmth to the remarks of Mr. MITCHELL upon babbling lawyers, expressing his indignation that one, who himself belonged to the bar, should rise in this House and slander the whole profession.

Mr. WRIGHT, of Ohio, said he regretted to feel under the necessity of engaging in the debate, but arguments had been advanced by gentlemen that he could not silently acquiesce in. The amendment of the gentleman from South Carolina, (Mr. HAMILTON,) to use a homely phrase, placed the cart before the horse, and he hoped it would not be agreed to. Sir, said Mr. W., I am as anxious to return home as any one here. The calls of my family and business require me to leave here; but while I listen to these calls, I cannot disregard the obligation I am under to my constituents. When I agreed to serve the public, I impliedly, at least, contracted with my constituents, to do the public business in preference to my own, and while I recognize the force of this contract, I cannot consent to sacrifice the public interest to considerations of personal convenience, or private concerns. The amendment proposed to fix the 19th of May as the day of adjournment. Why is that day fixed upon? Have you been told that you can accomplish the public business now before the House, by that time? Will any gentleman say it is within our physical or our mental power to accomplish it? I think not. On the 7th of this month, there remained on our calendar, unless I mistake, 255 bills and propositions prepared by our committees. If you add to these, those which have been sent us from the Senate, and those which will yet be received from that body, the whole number of subjects requiring the action of the House, will fall little, if any, short of 400. It is impossible to do all this business with the deliberation that becomes this body, or for members to act understandingly upon it, in the short space of three weeks. Some of it must be left undone if we adjourn within two months. The resolution proposes to inquire how many of these subjects the public good requires should be acted on this session; and in reference to the business before Congress, to fix on the day of adjournment. This is according to the common usage, and is obviously proper. The

APRIL, 1828.]

*Land Claims in Tennessee.*

[H. OF R.]

amendment proposes arbitrarily to fix on the 19th as the day. Has the mover brought his own mind to the conclusion that the business can be done before that time? No. Has he determined which of these subjects shall be acted on, and which postponed? He will not say so. We should make the inquiry, understand the subject, arrange the business, form the best judgment we can of the time required to do what must be done, and then we can promptly fix the day. Sir, we all deprecate the evils attending hasty and inconsiderate legislation. Those who have witnessed the mode of doing business at the close of our sessions, will be at no loss for the cause of the many imperfect and blundering laws we pass, and the frequent calls upon Congress for explanatory acts, to make our legislation intelligible. The gentleman and myself have frequently witnessed bills of great importance, hurried through the forms of legislation amid noise and confusion in which no one could understand the subject before the House, when even a quorum of members were not present. Often when not more than 30 were present, numerous bills passed without a division called, lest it should be discovered there was no quorum; until some bill particularly objectionable to some member induced him to call a division, when a call of the House was commenced, and progressed in till a quorum appeared, then the call was suspended, and perhaps, before the question was taken it was found that members had again retired and left the House without a quorum. If that be called deliberate legislation, I do not desire to witness it. It is discreditable alike to this body and to the nation. If we have business to do, let us do it—sit early and late—all day, until it is accomplished. I am ready to aid gentlemen in this work, and I think, if we are fitted to be here, and are desirous of doing our duty as Representatives, this is the course for us to pursue. Let us do the business, and then go home, and not determine to go at a given time, then get into confusion, and go and leave the business undone. Coercion will never effect deliberate legislation.

The gentleman from Virginia (Mr. P. P. BARBOUR) urges you to fix on the day, before you know what is necessary to be done. He has adverted to the mode of doing business in the British Parliament, and has indicated a preference for their method over ours. He deprecates the great desire among members here to engage in debate, and seems to regret that the practice of the British Commons was not adopted here, to decide a question at one or two nights sessions, after a few on each side, the leaders of adverse parties, have delivered their views. I have been acquainted with the gentleman from Virginia for a number of years, and think I do him no more than justice when I say, he would not knowingly advocate any measure whose tendency he thought prejudicial to the liberties of the people; but I think the practice alluded to would if adopted here, sap

to the very foundations the principles of a free Representative assembly—the liberties of this people.

The question was taken on the amendment of Mr. HAMILTON, (viz. to fix upon the 19th of May for the day of adjournment,) and decided by yeas 72, nays 118.

Mr. TAYLOR having declined to accept the amendment of Mr. BARTLETT as a modification of his own,

Mr. WARD moved, as an amendment, that the President of the Senate and Speaker of the House of Representatives adjourn their respective Houses on the 26th of May.

The amendment of Mr. WARD was rejected, yeas 65, nays 98.

The question was taken on Mr. TAYLOR's amendment, and decided by yeas and nays in the affirmative.

The resolution, as amended, was adopted, in the words following:

*Resolved*, That a committee be appointed, on the part of the House of Representatives, to join such committee as the Senate may appoint, on their part, to consider and report what business is necessary to be acted on at the present session, and to fix on and recommend the day on which the President of the Senate and the Speaker of the House of Representatives shall adjourn the present session of Congress.

The committee, on the part of the House, was ordered to consist of seven members.

THURSDAY, April 24.

*Land Claims in Tennessee.*

The House went into Committee of the Whole, Mr. MARTIN in the chair, on the bill "to amend an act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the vacant and unappropriated lands within the same," passed 18th April, 1806.

Mr. POLK said the bill, under consideration, proposed to grant to the State of Tennessee, certain vacant refuse lands lying within the limits of that State, to be appropriated to the purposes of education. This grant was not proposed to be made as a donation, but was claimed by Tennessee to supply a deficiency which existed in the common school lands of that State, which by an act of Congress, passed on the 18th day of April, 1806, it was intended to grant to her, but which she had but partially received. It was intended by that act, to place Tennessee on the same footing, in regard to school lands, on which all the new States admitted into the Union have been placed. Owing to peculiar causes, this had not been done. It would, he said, be remembered by the committee, that what is now the State of Tennessee, once constituted a part of the territory of the State of North Carolina; and to enable gentlemen fully to comprehend the nature of the present application, and to satisfy

them of the propriety of passing the bill, he would briefly bring to view the prominent acts of legislation, which had taken place, on the subject of land titles in Tennessee down to the present period.

In the year 1789 the State of North Carolina ceded to the Government of the United States all her Western territory, now included within the limits of the State of Tennessee, but in the act of cession, she reserved to herself the right to satisfy in the territory thus ceded, all her military land warrants issued, or to be issued by her, to her officers and soldiers, for their service during the Revolutionary War, and also the right to satisfy all land warrants issued by her to redeem specie certificates, a currency in the nature of Treasury notes, issued by the State, to defray the expenses of the war. The cession was accepted by the United States upon those conditions. The North Carolina claims were therefore a lien upon the ceded territory. In the year 1804, after Tennessee had been admitted into the Union as a free and independent state, a compact was entered into between North Carolina and Tennessee, by the terms of which North Carolina authorized Tennessee, to proceed to have located and granted in the territory within her limits, all the N. Carolina warrants, which then remained unsatisfied, and which by the terms of the cession act, constituted a lien upon it. This compact was sanctioned by Congress, by the act of the 18th of April, 1806. At the time that Congress ratified, and gave assent to the compact between the two States, it was not known what quantity of land warrants remained to be satisfied, but it was believed that it would not consume all the lands fit for cultivation in the State to satisfy them. Under this impression a line was directed to be run across the State, beginning at a point designated on the southern boundary of the State, and running north-westwardly across it. This line was called the Congressional reservation line, and the land warrants were directed to be entered east and north of the line, but provision was at the same time made, that if the country east and north of the line should prove to be insufficient to satisfy all the land warrants, that Congress would thereafter satisfy them south and west of the line. The country east and north of this line constitutes more than two-thirds, and very nearly three-fourths of the State. Congress, in the same act of April 18th, 1806, directed certain lands to be laid off for the use of Colleges and Academies, and provided farther, that the State of Tennessee, in issuing grants and perfecting titles on the military and other land warrants of North Carolina, should locate 640 acres in every six miles square, in the territory east and north of the said line, where existing claims would allow the same, for the use of common schools—to be appropriated for the instruction of children forever. So numerous, however, did the North Carolina land warrants prove to be, that only 22,705 acres of the common

school lands were located; whereas, if a 640 acre tract of school land had been located to every six miles square east and north of the line, the number of acres secured to common schools would have been 444,444, so that the State had received for common schools less than was contemplated she would, by 421,739 acres. The North Carolina land warrants not only exhausted all the lands intended for common schools, and all other lands of much value east and north of the line, but a larger number of them still remained unsatisfied. Congress had made provision, as he had already stated, that if the land east and north of the line should not be sufficient to satisfy them, that they should be satisfied south and west of the line. Accordingly, in the year 1818, Congress did make provision for their satisfaction south and west of the line. They have been thus satisfied, and it is for the vacant lands that remain south and west of this line, that Tennessee now asks to supply in part at least, the deficiency in the common school lands east and north of the line, which were contemplated to be granted to her by the act of Congress of 18th April, 1806, but which as he had shown she had not in fact received. The bill proposed to cede to Tennessee, for this purpose, the lands which shall remain vacant south and west of the line, "after the satisfaction of all the bona fide claims of North Carolina," so that if any yet remain unsatisfied, they are provided for.

All the valuable lands south and west of the line had been taken by the North Carolina warrants; and in order to form a just estimate of the true situation, and real value of that which still remained vacant, and which the bill proposed to cede to the State, it was proper to notice for the information of those who had not turned their attention to the land laws of North Carolina and Tennessee, to the manner in which the North Carolina warrants had been located and satisfied. And here it was proper first to observe that the owners of land warrants had been permitted by law to have them divided and subdivided into warrants of small size, so as to be enabled to appropriate them on valuable lands. The North Carolina soldiers were promised land fit for cultivation, and if the division of warrants had not been permitted, the owner of a large warrant might not have been able to find a sufficient quantity of arable land in any one body to satisfy his warrants, but in order to have it satisfied, might have been compelled to include within the bounds of his tract a considerable portion of sterile or barren land of no value. To avoid this, a division of warrants (whether wisely or not it was not now material to inquire) was permitted. The owner of a large warrant was permitted to deposit it with the proper officer to be cancelled, and received the same amount of acres, in warrants of smaller size. The owner of a 5,000 acre warrant, for instance, could deposit it with the proper officer,

APRIL, 1828.]

*Land Claims in Tennessee.*

[H. OF R.]

have it cancelled and receive in lieu of it five 1,000 acre warrants—or fifty 100 acre warrants, or he might, if he chose, have it divided into warrants of still smaller size, and into as many warrants of various sizes as he pleased, so as not to exceed the number of acres of the original warrant that had been cancelled. When the country south and west of the Congressional Reservation line, was rendered subject to the satisfaction of warrants, by the act of Congress of 1818, there were floating and unsatisfied in the hands of the owners, warrants and remnants of warrants of almost every size, from 10 to 5,000 acres, and, in some instances, as small as one acre. The legislature of Tennessee established a Board of Commission to adjudicate on the validity of the warrants, and also established in the district, south and west of the line, land offices, in which entries of land were authorized to be made by the owners of warrants. It was proper likewise to state, that many old grants were issued by North Carolina, as early as the years 1784 and 1785, to owners of warrants, for lands south and west of the line, then in an Indian country. These old grants were of course valid, and the land covered by them was not subject to entry, to satisfy the floating warrants, which were still unsatisfied.

As soon as provision was made, and land offices were opened in the country south and west of the line, the owners of land warrants went into the country, explored it, and each selected for himself the land that pleased him, and entered it in some one of the land offices, each calling in his entry for some natural or artificial object, a particular point on a given stream for instance, or a point, a given course and distance from some notorious or natural object, as the point of identity for the beginning of his tract, and designating the shape of his survey, by calls for courses and distances, from his point of beginning, so as to include in his tract all the valuable lands he could, and to exclude such as was inferior, or so sterile, that it was of no value. Upon an entry thus made, a grant issued from the State. Many thousands of entries had been made in this manner. All the valuable lands had been thus appropriated.

It would, he said, be readily perceived by the committee, that the lands that still remain vacant did not lie in compact bodies, but in detached parcels, in shapeless scraps of various sizes and figures. In many instances a narrow strip of inferior land was to be found, lying between the lines of two entries, or bordering around tracts that had been entered or granted. In other instances larger bodies of vacant land were to be found, having no regular shape or figure, surrounded in part or in whole by entries made on warrants. It would be perceived likewise that the lands thus remaining vacant were the inferior lands of the country. The Legislature of Tennessee, in their memorial to Congress, had stated, and

such was unquestionably the fact, that a great portion of it was sterile, being either swamps, bordering on the creeks and rivers, or barren hills, as not to be worth appropriating at any price; and that twelve and a half cents per acre was a fair average price for that, that would be appropriated at all. Not one acre of it would probably bring the present minimum price of the government lands. The testimony in the possession of the committee, of the surveyors who resided in the country, and had an intimate knowledge of the vacant lands and of their value, clearly proved that much the greater part of the vacant land would not be worth the taxes to be paid on it to the State, and never would be appropriated at any price; and that the part which would be entered lay in small pieces and detached parcels, and would only be appropriated at a reduced price, by the owners of adjoining lands and others, for outlets, timber, &c. From the testimony given by the surveyors, he had made an estimate of the quantity of acres, which would be appropriated at the low price of 12½ cents per acre, and found it would not exceed five hundred thousand acres: a small portion of this amount would bring 25 cents per acre, and none more than 50 cents per acre. The committee would likewise perceive, from what had been stated, that the manner in which the lands in Tennessee had been appropriated for the satisfaction of warrants, was wholly different from that adopted by the United States in the disposition of the public lands of the Government. The country had not been laid off into townships. Owners of warrants had not been compelled to enter lands adjoining section or township lines; they had not been compelled to include the bad land with the good, or to lay out their tracts in regular prescribed sizes and shapes.

Mr. P. said, it must, he thought, be perfectly apparent to every one, that the United States, if she were disposed to do so, never can realize any thing from these vacant remnants of land. It would be scarcely practicable for her to survey and designate the vacant spots, lying as they do in scattered pieces, between and around the lines of entered lands; of various sizes and of all imaginable shapes. The United States never had a land office in the State of Tennessee, and he submitted it to the committee, if one were now established there, and it were practicable to bring these scattered remnants of land into market, whether they would defray the expenses of laying the country off into townships and sections; of surveying the vacant spots, so as to distinguish them from the appropriated lands, and bringing them into market in the manner the United States dispose of all their public lands.

It might then be asked, if this be the case, why does Tennessee desire to obtain them, if they are of no value? Situated as they are, to the United States, can they be of any to Tennessee? The answer was an obvious one. Tennessee had her land offices already estab-



lished in the country. Her surveyors were in possession of the records of all the appropriated lands; they had an intimate knowledge of what remained vacant. The State would, therefore, without incurring any additional expenses, if the lands were relinquished to her, direct her surveyors, instead of receiving entries on warrants, as they had heretofore done, to receive entries at a low and a fixed price, to be paid into the office at the time of entry by the enterers. In this way the owners of small farms would probably enter the adjoining lands, for the timber, &c. In a few cases, poor persons, residing on these refuse lands, might be enabled to secure homes for themselves and families. Tennessee was pledged, if the land were relinquished to her, to appropriate the proceeds arising from them to the purpose of education.

SATURDAY, April 26.

*Case of Richard H. Wilde.*

On motion of Mr. P. P. BARBOUR, the House resolved itself into a Committee of the Whole, Mr. CONDIOT in the chair, on the bill from the Senate, entitled "A bill to authorize the cancelling of a bond therein mentioned."

To this bill, the following amendment was moved by Mr. TAYLOR, of New York:

"Strike out all the bill except the enacting clause, and insert:

"That, for the purpose of refunding to Richard H. Wilde the amount he has expended in the purchase of thirty-nine Africans, parcel of the cargo of the Spanish vessel called the Antelope, or Ramirez, decreed to Cuesta, Manzanel, and Brothers, the sum of \$11,700 be, and the same is hereby appropriated, to be paid out of any money in the Treasury, not otherwise appropriated, to be expended under the direction of the Secretary of the Treasury; *Provided*, the said Richard H. Wilde shall deliver to an agent of the Colonization Society, properly authorized to receive the same, the said thirty-nine Africans, or the survivors thereof, to be, by said Society, removed to the colony of Liberia."

The motion of Mr. TAYLOR led to a protracted and warm debate, in which the following gentlemen participated: P. P. BARBOUR, WRIGHT, of Ohio, SPRAGUE, GILMER, TAYLOR, DWIGHT, WEEBES, and MEROER. The question was then taken on the proposed amendment, and negatived; ayes 39, noes 99.

Mr. P. P. BARBOUR offered an amendment for the purpose of identifying the bond referred to in the bill, which was adopted.

The committee then rose, and reported the bill with an amendment, in which the House concurred.

Mr. TAYLOR renewed, in the House, the amendment which, as above, he had, without success, proposed in the Committee of the Whole, and required the question thereon to be taken by yeas and nays.

The question was then accordingly put, and the amendment negatived by yeas 51, nays 103.

The bill was then ordered to a third reading.

MONDAY, April 28.

*Case of Richard H. Wilde.*

The bill from the Senate, entitled "An act to authorize the cancelling of a certain bond therein mentioned," was read the third time as amended.

Mr. WOODCOCK delivered his sentiments at large in opposition to the bill, the practical effect of which, he insisted, would be, to add 39 more to the number of the slaves in the United States. He resisted the argument that the bill was required by motives of benevolence. 1st, on the ground that, if the consequence would be a benefit to the persons concerned, it was not the province of Congress to go hunting into foreign countries, and bring their slaves into the United States to benefit their condition, (and he considered the retaining of foreign slaves, who would otherwise go out of the country, as the same thing;) and 2d, because the laws of slavery in Georgia were more severe and oppressive than even the laws of Cuba, whither they were going: in confirmation of which position, he referred to the law forbidding slaves to be taught to read; forbidding them to marry without the assent of their masters; allowing them to be forcibly separated from their wives and children; and refusing them the power of being emancipated on the payment of their assessed value. He had all confidence in the humanity of the gentleman from Georgia, for whose benefit the bill provides; but he knew not into whose hands these unfortunate beings might afterwards fall.

Mr. FORT briefly explained the reasons from which he should vote against the bill—having ever set his face against increasing the number of slaves within the United States.

Mr. BARTLETT wished to understand the opinion of the Chairman of the Committee on the Judiciary with regard to two points, which he held to be important: 1st, whether these Africans would be slaves by law, supposing the present bill should not pass? And 2d, whether there was any immediate necessity for a decision?

Mr. P. P. BARBOUR replied, that, in his judgment, they would be slaves by the decision of the Supreme Court of the United States, whether the bill passed or not. And as to the 2d point, it was true the time for decision had been extended by the Circuit Court of Georgia, but there was some doubt as to the effect and validity of that decree. The time first limited was six months, and that time would very shortly expire. He waived all discussion, and implored the House to consume no more time, but decide promptly by adopting or rejecting the bill.

Mr. CULPEPER said a few words in favor of the bill, which he considered as going to prevent these people from being torn from the

APRIL, 1828.]

*Affairs with Brazil.*

[H. OF R.]

connections they had formed here, and being carried away into a still more severe slavery.

Mr. SPRAGUE wished to see the original decree of the Circuit Court of Georgia, that he might know its date, conditions, and effect, as to declaring them slaves. He did not now understand whether the failure of the Spanish claimant to embrace the conditions of the decree, would leave those persons in servitude or not.

Mr. BARBOUR replied, that no papers had been before the Judiciary Committee which they had not laid before the House. The bond itself contained a recital of the decree, on which he was prepared to act.

Mr. SPRAGUE called for a division of the question, and it was accordingly divided, and put first, on simply recommitting the bill, then on recommitting it with the instructions proposed. Both the propositions were negatived, and the question being put on the passage of the bill as amended, it was decided—yeas 92, nays 82.

So the bill was passed and returned to the Senate.

TUESDAY, April 29.

*Affairs with Brazil.*

The following resolution yesterday offered by Mr. COULTER, respecting the Affairs between the United States and Brazil, was taken up for consideration:

*Resolved*, That the President be requested to communicate to this House, (unless, in his opinion, the exigencies of the Government shall require the same to be kept secret,) a copy of the correspondence between our late Chargé des Affaires at the court of Brazil and the Brazilian Government, in relation to the alleged blockade by the naval force of the said Government, of any part of the coast of the Buenos Ayrean Republic, and a copy of the correspondence between the said Chargé des Affaires and his own Government on the same subject. And, also, a copy of the correspondence between our said Chargé des Affaires and the Government of Brazil, in relation to the imprisonment of American citizens. And a copy of any correspondence now on file in relation to the said Chargé des Affaires demanding his passports from the said Government, and the cause thereof, except so far as the same may have been heretofore communicated.

"And, also, that the President be requested to communicate to this House any information that may have been recently received by the Government concerning a paper blockade of the whole coast of the Buenos Ayrean Republic by the Government of Brazil, and the consequent embarrassment to American commerce. And, also, to communicate to this House what measures have been taken by this Government since the late Chargé des Affaires left the Court of Brazil, to countervail the illegal system of blockade attempted to be enforced, and to redress the suffering and losses of American citizens who were navigating the ocean under the protection of the law of nations and the guardian care of this Government."

Mr. EVERETT observed, that he was not sure

that he had an insurmountable objection to the adoption of this resolution; he would not, at least, express the positive opinion, that it ought not to pass, till he had heard the explanation of the gentleman who moved it, as to the views which had induced him to bring it forward. But it was his duty, as a member of the Committee of Foreign Affairs, to say a word on the subject of the resolution, so far as it covered the same ground with other resolutions, which have been before the House this winter, in reference to this branch of the Foreign Affairs of the country. In answer to a resolution, which Mr. E. himself had had the honor to submit to the House, a communication had some time since been received from the Department of State, containing the correspondence between the Representative of the Brazilian Government and the Secretary of State, on a portion of the subject of the present resolution. That answer, he believed he might say, was satisfactory. The gentleman now asks for information as to the measures which have been adopted by this Government, to procure a redress for the wrongs inflicted on our citizens by persons acting under Brazilian authority. By the communication from the Department of State referred to, it will appear that, after the return of Mr. Raguet, before the Executive Government of the United States would consent to nominate a successor, they received, from the Representative of the Brazilian Government, an official assurance, that full indemnity would be made by the Brazilian Government for any wrong which should be shown to have been done to an American citizen, in his rights or property. This, surely, was all, which, in that stage of the business, could be asked. Having received this assurance, the Executive of the United States, nominated a new Chargé des Affaires to Brazil. It seemed to Mr. E. premature, to ask what he had done to call for his instructions or his proceedings upon them. Mr. E. was not aware of the existence of any reason for supposing that he had not done all that could be done; and that that Government would faithfully redeem its pledge. It was certainly unusual, he might say unexampled, to interpose a call for information, relative to a negotiation, at so early a stage, unless circumstances existed to awaken a suspicion of neglect. If the honorable mover of this resolution would revert to the communication of the Department of State, referred to, he might, perhaps, find it satisfactory, and be induced, at present, not to press his resolution.

Mr. COULTER said he certainly did not offer the resolution now under consideration, without having examined the correspondence between Mr. Rebello, the Brazilian Chargé des Affaires, and the Secretary of State, transmitted to this House, in answer to a call upon the President upon that subject, and to which his attention had been invited by the honorable Chairman of the Committee of Foreign Relations. This correspondence (said Mr. C.) does not meet or satisfy any of the inquiries now

proposed to be put to the Executive branch of the Government, nor does it give that information to this House and the nation, and without eliciting which, Congress could not adjourn, and be just to the high duties devolved upon it by the existing posture of affairs. The honorable chairman misapprehends my design; or, perhaps, I have not been so fortunate as to point my resolution with sufficient precision to render my views definite. It was not within the scope of my intention to disturb the progress of any pending negotiation, in relation to these topics with the Government of Brazil; or, if such negotiation exists, to impede its progress to a successful issue, by ascertaining at what stage it is now. My object is to know officially what the Executive branch of the Government has done to disembarass the commerce of the country, redress the wrongs of its citizens, and assert the dignity of the Government. If a Representative was despatched to Rio, with all convenient haste, one branch of the inquiry will be answered, and answered to my satisfaction. But the very inducement for making the inquiry, is a belief resting on my mind, that, for one year, we have been unrepresented at the Court of Brazil, during which time flagrant invasions of our neutral rights have been committed by authority of that Government; and the promise given by Mr. Rebello, that justice should be done to our injured citizens, was scarcely filed among our archives, until new and continued oppressions were inflicted upon our citizens. I will state my reasons for this belief. I do not assume to be particularly connected with the mercantile interest of the country, or claim to represent that interest on this floor, further than every gentleman may be supposed to feel concerned for every branch of the population and wealth of the Union. My attention was first attracted to the subject, from an acquaintance, formed years since, with the late *Chargé des Affaires*, whom I met at this place, and for whose talents and integrity I had, and have, the highest estimation. I felt a strong sympathy for a gentleman thrown into embarrassment by his zeal for the interests of his suffering countrymen, and his devotion to the dignity and honor of his country. Perhaps a mistaken zeal and devotion. But I wished the veil to be removed, and that we might all see the cause of his words and actions. After, however, the Committee of Foreign Relations had given the *quietus* to his case, and doomed his complaints, real or imaginary, to the rest of oblivion, I felt no more than others, upon a concern, which had, of course, occupied the attention of that committee. Within a few days, however, I saw, in the public papers, a manifesto, or protest, of twenty-seven American shipmasters, and owners of that number of vessels, which are now detained in the port of Monte Video, without having offended against any principle of public or maritime law. As this protest may not have met the eye of every member, I will refer to its general contents.

By a decree of the Emperor, dated in September last, after the pledge given, at this capital, in the Spring, all vessels then in the ports of that province, were compelled to enter into competent bonds, not to sail to any port of the Republic of Buenos Ayres. Thus establishing a paper blockade of the whole coast of that Republic, in its most obnoxious form: for, if a real blockade existed, why the necessity of taking these bonds, that vessels would not do that which they could not do? It would multiply the chance of rapacity. Many of these ships went into this port looking for a market, others were taken for an alleged attempt to elude the blockade of the Buenos Ayrean coast; and others sought the hospitality of the port in distress. A hospitality never violated or refused to the sons of the sea, among civilized nations.

Under such circumstances, the masters and owners published their protest against the infictions thus heaped upon American citizens. It is an appeal to their countrymen at home. As it is not authenticated by, or addressed to, a Representative of the American Government at Brazil, I infer, that, on the day of its date, 11th January, 1828, no such functionary was at the Court of Rio de Janeiro—almost a year after, the late *Chargé des Affaires*, influenced by a high feeling for indignities offered to his country, had terminated his mission at that court. The first trace I find of the history of the injuries inflicted upon our commerce, by this nation, is a paper, signed by the entire Delegation of the State of Massachusetts, dated February, 1827, shortly after news had reached this country of the war between Brazil and Buenos Ayres, and addressed to the Secretary of the Navy, urging the propriety of sending a considerable Naval force into the adjacent seas, for the purpose of protecting the American commerce which must float there. A similar application was made by the respective Chambers of commerce of Philadelphia and Baltimore.

These persons seemed to have anticipated, with great accuracy, the effects of the rapacity and cupidity, and, I may say, insolence (for I think not a little insolence has been displayed towards this Government) of the Brazilians. In his annual message to Congress, in 1826, the President stated, that our relations with the South American Governments were friendly, and improving, although many of the aggressions were committed before that period, and the alleged blockade of the river La Plata was in force. Commodore Lobo, with parade and menace, bore down upon Capt. Elliott, with a full knowledge of his character, and whilst the American flag was flying. He found, however, that he had mistaken his opponent's character, at least, if not his own. Our Naval Officers are not accustomed to let the character of a service, which their deeds has illustrated, suffer, for want of that manliness and spirit which the nation looks for from them, if not from all who represent its national character.

Aren, 1828.]

Affairs with Brazil.

[H. of R.]

The treatment afforded by this Government to our Chargé d'Affaires was such as to induce him to take a very extraordinary course, rarely met with in the history of Diplomacy. But can we not imagine circumstances that would justify such a step? No individual ought to permit continued indignity to the National Sovereignty of this Republic, in his person. If the course taken by the individual was the effect of an impatient, or fretful temper, at the ill-success of his representations, he could not be approved or justified. The President says, the conduct was not disapproved by him. We are not, therefore, at liberty to presume that it was merely whimsical or capricious. It would, then, be highly satisfactory to this nation to have the means of judging for themselves, whether this novel step, taken by one who represented their dignity, was justified by the occasion or not. On all this subject, we wish for all that light and information, which the archives of our Government can furnish. Because, although it is highly satisfactory to know that the Chief Magistrate did not disapprove of the proceedings of our Envoy, yet the national honor is not repositied exclusively in his bosom. I ask for light, on a matter that may demand the supervisory action of Congress. We know, from the current news of the times, that our Minister was insulted, or conceived himself to be so, by the Government of Brazil: that they attempted to dishonor our national flag; that they have pushed on a system of paper blockade, contrary to the law of nations; taken our merchandise, and maltreated our seamen; and that the cargoes of twenty-seven ships, owned by American citizens, and navigated by American seamen, are now detained, contrary to the law of nations. Have we not, then, a right to know what has been done, to redress these wrongs, by the Executive branch of the Government?

It is curious to observe, that, in the correspondence between Mr. Rebello and the Secretary of State, the first demand of the Brazilian is, that reparation shall be made to his Government, for an insult offered in the sudden departure of Mr. Raguet; that our Government shall disapprove of Mr. Raguet's conduct, in writing, and appoint a successor; who will be received with the respect due to his character. The whole affair is quietly settled, and closed up, before our own unfortunate Minister is heard or seen, although at this very date, and some days before, he had landed at New York. But, alas, notwithstanding the soft words of Mr. Rebello, a constant scene of aggression has been going on ever since upon our commerce. The nation wished to know, officially, what is the state of the controversy; how far the Brazilian Government has advanced her pretensions on the subject of paper blockade, and how far our Government has acceded. It is not only the right of this House, but it is its imperative duty to know, how far our citizens, engaged in commerce, receive that protection

from the Government, to secure which, was one of the great ends of the constitution. And it surely does not wear the color of assumption in us, who have contended successfully for the trident with the former mistress of the ocean, to maintain that it shall not be rendered useless or powerless, in our grasp, by one of the new Governments of the South. When man is at home, in the midst of his friends, and surrounded by accustomed scenes, he bears misfortune with firmness. The very consciousness that he treads upon the soil of his country, nerves his resolution, and carries consolation to his bosom. But, when he is in a land of strangers, and seas roll between him and his home, it is then that he looks for protection to the moral greatness and physical power of his Government. It is then he heaves the sigh, when his country forsakes him, and denies that assistance, which it is the first end of all Governments to secure. I hope the resolution will pass.

Mr. EVERETT replied as follows: I will not attempt, Mr. Speaker, an elaborate answer to the gentleman, on the several topics at which he has glanced. But it is my duty to the Committee of Foreign Affairs, and to the House, to make one or two suggestions on the subject. And, first, I must say a word in reply to the remark of the gentleman touching a matter not immediately involved in his resolution. He says, the Committee of Foreign Affairs gave the *quietus* to the complaints of Mr. Raguet, and doomed them to oblivion. Sir, it is quite a fair account of the proceedings of the Committee of Foreign Affairs, on that subject. How did they give the *quietus* to Mr. Raguet's complaints? By an ample and decided vindication of his character, touching the subject-matter of those complaints. What were his complaints? They were, that his character had been traduced by a foreign journalist; that, in a gazette, published at Rio de Janeiro, and said (justly for aught I know) to enjoy the confidence of the Brazilian Government, he had been accused of conduct unbecoming a man of probity and honor. What was the *quietus* which the Committee of Foreign Affairs gave to Mr. Raguet's complaint of these charges? They reported that they believed them unfounded and libellous; without a shadow of truth; that his character was unimpeached; that the Executive Government of his own country had not disapproved his conduct, which they believed had been actuated by honest and patriotic motives; and that the libellous aspersions of an anonymous foreign journalist were beneath the notice of the Congress of the United States. What other *quietus* could the gentleman wish to be given to a charge against a friend, a constituent, or a fellow-citizen?

With regard to the other and more important point—the expediency of moving the resolution at this time—the gentleman has pursued a fair and parliamentary course. If it can be made out that the Government of the United

States is not represented at the Court of Brazil; and if there is a good reason to apprehend that the Executive has neglected his duty to the citizens of the country, suffering in that quarter, it is then unquestionably not merely the right, but the bounden duty of the House, to call the President to account for so strange and gross a neglect. What is the proof which the gentleman adduces of this fact? A protest of the American citizens injuriously detained at Monte Video, by the operation of the Brazilian laws; which protest is addressed to their countrymen at home, and not to any Representative of the American Government, at the Court of Brazil. From this argument, the gentleman infers, that the Government of the United States is unrepresented there, and is not taking the proper measures to procure indemnity to our citizens for the losses they have suffered. Sir, is this a satisfactory argument? It is matter of publicity, that a successor to Mr. Raguet was appointed last year, a gentleman then American Consul at Lima, a remote place, to which intelligence of the appointment would belong in arriving, and from which, also, it would take him a considerable time to reach the place of his destination. He did, however, accept the appointment, and departed for the place of his destination; and I know of no reason to think that the negotiation will not be pursued by him to a successful issue.

The gentleman has referred to a passage in the Message of the President at the opening of the last session of Congress, apparently to support the intimation, that the Executive was indifferent to the illegal course which had been pursued by the Government of Brazil. It is true, that, in the passage in the Message to which the gentleman referred, the President remarks, in general terms, that amicable relations subsisted between the United States and the new American Governments. But, in another passage, in the same Message, the President particularly mentions the unwarrantable principles of blockade, assumed by the Brazilian Government, and the resistance made to those principles by our naval officers; and that Message was accompanied by the correspondence of our naval officers on that station.

[Here Mr. E. quoted the passage to that effect in the message at the opening of the second session of the 19th Congress.]

The gentleman reverted to the procedure of the late *Chargé d'Affaires*, in demanding his passports and returning, and had intimated that the people ought to know whether his motives were commendable. But as far as the Executive is concerned, they are (as we are told in the Message at the opening of this session) not disapproved; they are stated to have been, in the judgment of the President, honorable and patriotic. What cause, then, is there to defend, further, what no one impugns? The gentleman said, very truly, the Executive is not the sole depository of the honor of the country. Certainly not, sir, and if ever a case present it-

self, where the President shall fail to vindicate it, this House is the place where it ought to be, and will be asserted and vindicated. I have no fear that this House will not do its duty. But has not the Executive done its duty too? It is true, as the gentleman states, Mr. Rebello asked of Mr. Clay an expression of disapprobation of Mr. Raguet's conduct, and what was Mr. Clay's answer? Sir, it was in short terms, that Mr. Raguet "was accountable to his own Government, and that only." Nor did the Executive of the United States consent to nominate a successor to Mr. Raguet, till the Representative of the Brazilian Government had given an assurance, not merely that he should be received with the consideration due to his official character, but that indemnity and atonement should be made for past injuries.

[The discussion was here arrested by the expiration of the hour allotted to resolutions.]

#### *Land Claims in Tennessee.*

The House then, on motion of Mr. POLK, went into Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the consideration of the bill to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same, passed on the 18th of April, 1806.

Mr. LOCKE, after quoting extensively from the report of the committee, examined the testimony which had been given by the surveyors of Tennessee, which, he contended, was not definite, contained mere matter of opinion, and ought to be received with caution, as being, in a great measure, of an *ex parte* character. He apprehended that the quantity of the land was greater than many gentlemen supposed; and must amount to little, if any thing, short of four millions of acres. He objected to the principle and policy of the bill, and thought it better that the House should defer acting upon it until fuller and more definite evidence should be before them.

Mr. CROCKETT said it was with the greatest diffidence that he rose to address the committee. Did I not (said Mr. C.) consider it due to myself, to my constituents, and to the honorable committee from whom this bill was reported, I can assure you I should not hazard a single remark. But in discharge of my duty to each, I feel myself compelled to submit a statement of such facts as have fallen within my own observation; and for which I am willing to be considered responsible. I am inclined to think that no individual whatever, knows better than myself the situation of the section of country to which the bill under consideration relates. Sure I am, that no gentleman here can understand it so well, as I presume no one has traversed it, or resided there. I, sir, have been a resident within the boundary, for ten years; and, from the nature of my engagements, have had numerous and ample opportunities of be-

APRIL, 1828.]

*Land Claims in Tennessee.*

[H. OF R.]

coming perfectly acquainted with its value, as well as its various advantages and disadvantages of soil, climate, and situation.

Before I proceed to give a general description of the quality of the land, the cession of which is sought by the State of Tennessee, it should be remarked, that the State whose interest I advocate, has a legal claim upon the General Government, for about 420,000 acres of land. When the State of North Carolina ceded to the United States its territory lying within the present limits of the State of Tennessee, it was stipulated, that, in consideration of said grant, the United States should satisfy all the military land warrants for which that State was bound.

The Carolina title being thus extinguished, Congress, by an act passed in 1806, agreed and stipulated with the State of Tennessee, that, in consideration the latter would satisfy the aforesaid warrants, she should be entitled to one full section of land in each township, for the purposes of education. In pursuance of this agreement, Tennessee did satisfy the warrants before spoken of. They were laid upon the best land, often upon but small tracts, discarding such as was unfit for cultivation, leaving none except the refuse land, and that so mutilated, as to present almost every imaginable form and figure. By this means, it was rendered utterly impossible for Congress to comply with the original understanding, or to lay out for Tennessee a full section of land suitable for cultivation, in any one of the townships. It is, sir, from the act of Congress before alluded to, that my calculation is made, relative to the extent of our claim, which yet remains unsatisfied. I say unsatisfied, because we have received, say 20,000 acres, in part discharge of your promise. The obligation, Mr. Chairman, on the part of Congress, was entered into for a most noble and glorious purpose. It was, in the first place, to discharge debts which had for forty years been due to our soldiers; and secondly, to advance the cause of learning, by erecting and dedicating temples, to at least the rudiments of science, in our western wilderness. We do not wish to be viewed in the attitude of beggars, when we ask for the benefits of this bill; no, sir, we ask it not as a donation, we claim it as a matter of right. But I must proceed to speak of the situation and value of the land which we seek to obtain. The gentleman from Massachusetts (Mr. LOCKE) estimates its lowest value at 12½ cents per acre. In this estimate, sir, that gentleman is astonishingly wide of the mark. I state it, and upon this subject I speak advisedly, that more perhaps than 200,000 acres of this very land, would not command one cent per acre. It is mountainous and poor, and from a combination of circumstances forbids the idea of its ever being populated. It may be replied, that it must to some extent be valued for its timber. This argument may have some weight with those who have been raised in towns and cities, where timber is not only in demand, but costly; but in the section of

country to which I allude, it would have no weight. For, sir, instead of wishing more timber on our land, we would gladly avail ourselves of some invention, to wish a considerable quantity of it off, with less labor. It is useful for one thing, and for one only; it affords us mast for our hogs, and range for our horses and cattle. Before gentlemen arrive at the conclusion that this land is valuable, they should reflect, that since the year 1789, the whole extent has been open, to be culled by such as had warrants to locate, or entries to make. From this circumstance it would be reasonable to conclude, that such parts as were worth locating, had already been settled or secured.

East of the Tennessee River the country is mountainous and rocky, with large tracts of territory, which, as I have before said, never can be settled. True it is, there are streams which run through it, affording narrow bottoms, which are thickly settled; these, however, are beyond your control, being the property of occupants; but on the west side of the river, the face of the country and quality of the soil are different; here you get rid of the rocks, but you enter a poor, barren country, almost as undesirable as the other. In this, as in the upper section, the valuable spots, which are frequently very small, are already located; and it was with a view to secure these, that the size of warrants was varied by law, from 8 to 5,000 acres. The low grounds or bottoms, contiguous to the streams in this western division, are frequently from one to two miles in width; but an important reason why they neither are, nor can be valuable, is found in this, to wit, that they are usually inundated. This I know to be fact personally; having often rowed a canoe from hill to hill. I urge the propriety of this measure, sir, upon another ground; it is, that many of our citizens, who encountered the early fatigues and privations of that country, are still without homes. They had seated themselves upon some little spot, looking forward to the time at which they could make it their own. But they had large families to toil for: the price of land was high, and many of them have seen their little farms, which had afforded bread for their children, taken from them by warrants held in hands more fortunate than their own. To this they have submitted, and submitted without a murmur. But in the midst of their humble submission they have not ceased to look up to Congress as children would to a parent, for assistance and protection. They have fondly looked forward to the period which would enable them, instead of being tenants, to which condition they have been reduced, to become owners of at least some humble spot, on which to labor, and which they could call their own. Why does a man pride in his country? Why does he fight to defend it? It is, sir, because in so doing he fights for his home—for the spot upon which all his affections are fixed—and which stands identified with ten thousand endearing recol-

lections. I cannot be mistaken, Mr. Chairman, when I assert, that to make of your citizen a landholder, you chain down his affections to your soil, and give him a pride and elevation of character, which fires his heart with patriotism, and nerves his arm with strength. These are ends which I wish to accomplish; and particularly in relation to the people whom I represent; for, sir, when your country was invaded, and the flag of its honor insulted, they shouldered their guns and fought in its defence; and, not to pay myself a compliment, I had the honor to fight, side by side, with them.

But the purpose for which this relinquishment is sought, aside from the obligation on the part of the General Government, recommends it to our affections and attention. It is not only to make glad the hearts of the poor, but it is also to educate the poor man's child. It is to snatch from the vale of poverty and obscurity many a youth, and dispel that gloom of ignorance which shrouds him, by inviting him to enter the doors of a respectable country school; for, sir, in that country we have but little to do with colleges. I never, myself, had the good fortune to behold the inside of one, which I trust will plead an apology for the plain and unvarnished manner in which I address you. I am, sir, but a farmer, destitute of those advantages of education which others possess. I thank heaven I know their worth, from having experienced the want of them; and on that account, I am the more anxious to extend them to those who will come after me. I say, emphatically, the measure will benefit the poor, nor am I ashamed to acknowledge that they constitute the very class of your population, among whom I have met many brave and meritorious men; the class upon whom I should delight to bestow a benefit. I heartily coincide in opinion with the gentleman from Kentucky, (Mr. McHATTON,) in his view relative to the importance of reducing the price of public lands throughout the Union. The rich require but little legislation. We should, at least occasionally, legislate for the poor.

Mr. Chairman, I will not attempt to go into a discussion of the principles of the act of Congress, upon which this appeal to your justice is bottomed. They have already been explained, and I trust to the satisfaction of the committee. I will content myself with assuring my companions in legislation, that all circumstances considered, they run no risk of making a sacrifice, by the passage of the bill before us. Should we refuse to pass it, we shall display too much of the temper and disposition of the dog in the manger. He could not eat the hay himself—he would not permit the ox to do so.

The expense of surveying, sectionizing, and selling the territory sought, would consume the value of the whole. I speak not at random; for as a candidate I have too often traversed it, to be unacquainted with any material circumstance relative to it. Having, perhaps, already detained the committee too long, I submit the

question to their decision, anxiously desiring that the bill may pass.

Mr. BROWN said: The territory of Tennessee belonged originally to the State of North Carolina. That State had issued numerous land-warrants, to be located upon that part of her territory which now constitutes the State of Tennessee. Afterwards, in 1789, North Carolina ceded this part of her territory to the United States, reserving a right to issue grants and perfect titles to satisfy all the claims chargeable upon the territory. This right she continued to exercise until the year 1803. At this time, (Tennessee having been previously admitted into the Union,) a negotiation was instituted between North Carolina and Tennessee, which resulted in a compact, that Tennessee should be vested with authority to issue grants and perfect titles instead of North Carolina. Upon the 18th of April, 1806, Congress, by an act of that date, ratified this compact, so far as to authorize the State of Tennessee to issue grants and perfect titles to lands lying north and east of a certain line in that act described, since called and known by the name of the Congressional Reservation line. By the same act, the United States ceded to the State of Tennessee all the lands lying north and east of this line, requiring, as one of the conditions of the cession, that 640 acres of land, to every six miles square, should, where existing claims would allow of it, be laid off for the use of schools for the instruction of children forever. The act further provided, that if there should not be sufficient lands fit for cultivation, north and east of the line, to satisfy all the outstanding claims, provision should be made by law for satisfying them out of the lands south and west of the line. On the 4th of April, 1818, upon a supposition that the lands north and east of the line were insufficient, an act of Congress was passed, authorizing the outstanding North Carolina claims to be satisfied out of the lands lying south and west of the line. This act was entirely silent upon the subject of school lands. It was now alleged, on the part of Tennessee, that the land warrants which had been extended upon the lands lying north and east of the Congressional Reservation line, were so numerous that but few school tracts could be laid off; and that therefore the lands now asked for should be granted to her, to supply the deficit of school lands *promised* the State by Congress. But no such promise had ever been made; and no obligation arising out of contract rested upon the United States. The provision in the act of 18th of April, 1806, for locating school lands, instead of implying a promise on the part of the United States, was imposed upon Tennessee as one of the conditions of the cession. Of this any person would be satisfied who would examine the act. And a candid and impartial attention to the terms of that act, and to the history of the transaction connected with it, he believed would satisfy every one who thus examined them, that, when the act was passed, it was

APRIL, 1828.]

*Land Claims in Tennessee.*

[H. OF R.]

believed that the vacant lands lying north and east of the Congressional Reservation line were more than sufficient to satisfy all the outstanding North Carolina claims; and that this was among the reasons why the conditions was imposed. He begged the attention of the committee to the precise terms of the condition. It was in these words: "The State of Tennessee shall, in issuing grants and perfecting titles, locate 640 acres to every six miles square in the territory hereby ceded, where existing claims will allow of the same, which shall be appropriated for the use of schools for the instruction of children forever." But no provision was made for locating school lands elsewhere, provided existing claims would not allow the location of the 640 acres to every six miles square. Such a provision would doubtless have been made if it had been understood that the United States were to make good such deficiency. But there was a provision in the act, inserted out of abundant caution, that if, contrary to what was evidently the expectation, the lands north and east of the line should be insufficient to satisfy all the outstanding North Carolina claims, then, Congress would make provision for satisfying them out of the lands lying south and west of the line. When this provision was made, there would, also, as it appeared to him, have been made provision, in the same manner, for making good any deficiency which might happen in the school lands, if such had been the intention. Again, the act of April 4, 1818, which provided for the satisfaction of the outstanding claims out of the lands lying south and west of the line, was entirely silent upon the subject of the school lands. At the time this act passed, the alleged deficit in these lands was as well known as it is now. And he put it to the gentleman from Tennessee and to the committee to say, whether, if the State of Tennessee had understood that there was promised to her the amount of school lands now claimed, it was possible that those acts would have been passed, without some provision for making good the deficiency in the amount of those lands. It appeared to him the thing was not possible. The idea, then, that there was any such promise on the part of the United States, must have been an *after-thought* with Tennessee—an inference by way of argument drawn by those who were unacquainted with the original understanding of the parties concerned.

Mr. POLK stated, in reply, that the testimony of the Surveyors was better evidence than that of the Registers would be, because their offices contained the evidence of all the original entries. To repel the idea of a speculation, he said the State would be abundantly content if the deficit of school lands should be made up in any other mode which gentlemen might prefer.

Mr. BROWN rejoined, that, admitting it was so, his objection to the nature of the evidence still existed in its full form; for the estimates of the surveyors and deputy surveyors, to which

he had referred, were made, not from an examination of the records of their offices, but from mere conjecture, as would appear from an examination of their letters, extracts from several of which he read.

Mr. McCORY opposed the bill, denying that the United States were under any obligation to cede a foot of school land to the State of Tennessee, at least, not till every warrant issued by the State of North Carolina had been fully satisfied. All that the United States had allowed the Legislature of Tennessee to do on that subject was, to reserve a school lot in every township, when prior locations would admit of it. If those locations took up all the land, then the condition of the grant ceased. If Tennessee asked these lands, the least she could do, was, to indemnify the United States against all warrants hereafter to appear. He referred to the great expense the United States had sustained while Tennessee was a territory, insisted that one great reason for granting school lots, was to aid the sale of the Public Lands.

Mr. LEXA quoted from the act of Congress, in order to correct some inaccuracy in Mr. McCORY's statement.

Mr. VINTON put several queries to Mr. POLK as to the quantity of land lying north and east of the reservation line—the amount of school lands in that part of the State; whether school lands were granted to the State at large, or only to the townships wherein they lay; and whether warrants had not been removed from one side of the line to the other?

Mr. STRONG stated his difficulty in assenting to the bill to be, that North Carolina, who was the original holder of the land, had never released the United States from liability to satisfy her warrants. Until such a release were given, the United States were bound to see that those warrants were satisfied in Tennessee; and until they were all satisfied, the United States could not give up their lien on the lands.

Mr. BELL, of Tennessee, said: The gentlemen who have spoken in opposition to the bill, have declared their readiness to support it, if it can be shown that the General Government is under any obligation to make provision for the support of common schools in Tennessee. This obligation, I think, can be made to appear to the satisfaction of every one. By an express article in the compact, entered into in 1787, between the Congress of the Confederation and the people northwest of the river Ohio, it is stipulated on the part of the Confederation, that "schools and the means of education should forever be encouraged." This generous stipulation in favor of light and knowledge, may have been in pursuance of the conditions upon which Virginia ceded that noble region to the United States, (my researches on this point have not gone so far back,) or it may have been the dictate of the wisdom of those who then had the guidance of our national councils: but whether it was the offspring of the State which gave, or of the Confederation which re-



ceived, I conceive it cannot be more highly or appropriately commended, than by saying, that it was worthy of a period in which an enlightened love of liberty prevailed over the sordid calculations of wealth. When North Carolina ceded her western territory, now the State of Tennessee, to the United States, she made it an express condition in her act of cession, that the inhabitants of that territory should enjoy "all the privileges, benefits, and advantages" set forth in the ordinance or compact I have already mentioned, one only excepted, not now necessary to be adverted to. That I may not leave the argument exposed to attack on any point, as I proceed I will show that the stipulation in the compact between the Confederation and the inhabitants of the territory northwest of the river Ohio, so far as relates to common schools, was by no means a vague and indefinite promise to do something for the cause of education, without any understanding as to the manner in which it should be done, or the kind and quantum of the provision which should be made. By looking into the proceedings of the Congress of the Confederation, it will be found, that by the ordinance adopted in 1785, for ascertaining the mode of disposing of the public lands northwest of the river Ohio, one section out of every township of six miles square, was directed to be reserved for the maintenance of public schools. We may, therefore, with safety infer, that the compact of 1787, in the article I have quoted, had reference to this specific mode of making provision for the cause of education. This was one of the "benefits and advantages" which North Carolina intended to secure to the inhabitants of the territory she ceded to the United States. Thus, when Congress, in 1790, accepted the cession of North Carolina, upon the terms specified in her act of Assembly, passed in 1789, the faith of the United States became pledged to North Carolina, to the inhabitants of the ceded territory, and to all who should become interested in its soil, that the same provision would be made for the support of common schools in that territory which had been made in the territory northwest of the river Ohio. The question, therefore, of the power of Congress to make donations of the public lands, does not arise upon the present application, nor can the objection be taken, that these lands have been pledged for the payment of the public debt. To avoid all useless cavil, however, upon these points, it may be proper to advert to the fact, that this promise to provide the means of education was an undertaking of precedent obligation on the part of the United States. In no way, therefore, can the claim which the State of Tennessee sets up to these lands be evaded, but by showing that the means of education have already been sufficiently provided, which I believe is not seriously alleged by any one. The inquiry, however, very naturally arises, how it has happened that the State of Tennessee alone, of all the new

States of the South and West, formed out of the territories ceded by any of the old States, has not had the full benefit of the usual provisions for the support of common schools. The answer to this inquiry will be found in the nature of the other conditions with which North Carolina clogged the cession of her western territory, and in the peculiar and extraordinary circumstances under which she had proceeded to appropriate her vacant lands prior to her act of cession in 1790. A brief notice of some of these circumstances will not be without advantage, in satisfying the committee of the probable value and extent of the lands owned by the United States in Tennessee; and further to show that exact and precise information upon these points, is not, and can never be, within the reach of Congress at any reasonable cost.

North Carolina had promised bounties in lands to the officers and soldiers of her line in the war of the revolution. She had contracted other debts to a large amount, in prosecuting the same glorious controversy. For the satisfaction of the claims of her officers and soldiers, she laid off what was called the military district, many hundred miles removed from any dense population. She, about the same time, opened offices for the sale of the residue of her vacant lands, embraced in a territory extending east and west four or five hundred miles, without any regular plan or design. The plan of laying off the country into ranges, townships, and sections, was not thought of, and if such plan had been ever so well matured, it would have been impracticable, by reason of the exposed condition of the country. The military district was laid off under the protection of a strong military guard, and this being accomplished, the soldier and the citizen went forth into the heart of the wilderness, in small parties, or alone, as prudence or interest dictated, and at the hazard of their lives each selected the particular spot of earth which pleased his fancy; and if he was so fortunate as to escape the aim of the Indian who waylaid his path, he returned into the settlements, and in the proper office caused a brief description of the land he had selected to be entered. Upon this issued what was called a warrant of survey, which was transferable, and entitled the holder to have the specific quantity of land called for on the face of it, surveyed and granted to him in some part of the country, whether the land originally selected was ever afterwards found or not. As the country advanced in population, various occupant and pre-emption rights were secured by law to the settlers. Other causes of irregularity and uncertainty existed. As no two men would be likely to give a similar description of the same piece of land, it unavoidably happened, in hundreds of instances, that the same piece of land was covered by the entries or incipient claims of many individuals. When the country became accessible to a permanent population, and

April, 1828.]

*Land Claims in Tennessee.*

[H. OF R.]

tribunals were established for the investigation of titles, it was but just that those who lost their lands by the prior claims of others, should be permitted to take lands elsewhere in the same territory. The officers and soldiers too, who had claims for bounties, came forward at irregular and distant periods, and when it was ascertained that the district allotted to them was not of sufficient extent to satisfy their claims, the whole of the residue of the country was thrown open to them likewise. Thus, although the whole of any of the great natural divisions of the territory would not be likely to be appropriated, yet detached, irregular, and shapeless parcels and masses were culled out and set apart in every quarter where good lands presented themselves. Under such a system of appropriation as I have described, and carried on under the circumstances I have mentioned, gentlemen will readily see and acknowledge the monstrous irregularities, uncertainty, and confusion, which must and did attend its operation. Although the law provided, in general terms, that location and surveys should be made in regular right-angled figures, yet, from the causes I have mentioned, one who has any knowledge of the manner in which that country was cut up and parcelled out, would suppose that the law had annexed a penalty to all surveys of regular form and figure, instead of enjoining such form. Such was the condition of the territory; and, subject to the satisfaction of a mass of floating and unsettled claims, of uncertain amount and extent, did Congress accept the cession from North Carolina.

But the evils I have described did not cease here. Congress, by the terms of the cession, had no right to interfere in the appropriation of the vacant lands of the territory, until all the claims with which it was encumbered should be first satisfied. The right to do this, North Carolina reserved to herself exclusively, and without any limit as to the time within which it would be done. This right she continued to exercise in the same irregular manner I have described, not only during the existence of the territorial Government which was established there, but for ten years after Tennessee was admitted into the Union as an incipient member of the Confederacy. Thus the anomaly occurred, of one State, of merely co-ordinate sovereignty in every thing else, appointing officers, keeping up offices, and controlling their operation in a sister State, the sole duties and business of which concerned the management and disposition of the soil—that which is of the very essence of sovereignty. What rendered the whole system more complex and embarrassing to the State of Tennessee, was that the United States continued to be the paramount owners of any part of the country which might remain unappropriated after the North Carolina claims should be satisfied. Complaints were heard upon this floor, from the Representatives of other States, that in the struggle on the part of North Carolina to se-

cure to her citizens, to whom she had sold lands prior to the cession, the choice of the best lands, wheresoever situated; and a corresponding effort, on the part of Tennessee, to protect her own citizens in their occupant rights, who had pushed their settlements into every corner where the lands invited by their fertility, and which were not interfered with by Indian reservations, the United States were likely to be deprived of every part of the inheritance except barren hills and mountains. Such a state of things could not long exist, without producing serious and dangerous collisions, and, in 1805, to such a height had the opposite feelings and interests of the contending parties blown these elements of strife, that all became sensible of the necessity of adopting some plan better calculated to secure to each the rights respectively set up and insisted upon. The conviction of this necessity produced the compromise which is to be found in the act of Congress of 1806, chap. 81. Congress, by that act, with the consent of North Carolina, conferred upon the State of Tennessee the right to issue grants, and to satisfy the outstanding claims of North Carolina, in her own way; but this power was given to Tennessee upon the express condition, that the country which lies between the Mississippi and Tennessee Rivers, including a considerable tract of country lying east of the Tennessee, as it flows north through the western sections of the State, should not be encroached upon for the satisfaction of the North Carolina claims, until all the country lying east and not included in this reservation, should be first exhausted. This was the first point of time at which the United States acquired any right to interfere in the appropriation of the soil of Tennessee, and Congress availed itself of this right, to comply with the stipulation to provide the means of education, and required the State of Tennessee, as a further condition of the cession which was made to that State by the act of 1806, of all the lands lying east and north of the district I have already described, that six hundred and forty acres should be reserved in every six miles square of the lands ceded by that act for the use of schools. Tennessee, from this time forward, took upon herself the burthen of introducing some order into the plan of making appropriations for the satisfaction of the great variety of claims which had sprung out of the North Carolina system; and from the year 1806 up to this day, one-half—I believe I would not be far wrong, to say two-thirds—of the whole legislation of that State has been employed upon this subject. Her first step was to lay off the country into ranges and sections of six miles square, and to provide that the lands directed to be reserved for the use of schools by the act of Congress, should be set apart for that purpose; but by reason of former appropriations, in an extent of country in which upwards of four hundred thousand acres would have been the proportion of school lands

agreeably to the provisions of the act of Congress, not more than above thirty-five thousand are reserved. In many large and populous counties, not a single tract was or could be found fit for cultivation, and not already granted.

In 1818, Congress became satisfied that the country lying east and north of the reservation line established by the act of 1806, did not afford vacant lands sufficient for the satisfaction of the North Carolina claims; and by an act passed in that year, the country lying south and west of that line was placed at the disposal of the State of Tennessee, for their final extinguishment. It should not be forgotten, by those who wish to form any thing like a correct estimate of the value and extent of that part of the national domain which lies in Tennessee, that in the only district in which the United States own one foot of land, large appropriations, say of between three and four millions of acres, of the best lands, had been made by North Carolina, under the same irregular system I have before described, prior to the cession of 1790. When this part of the country was again thrown open for the satisfaction of the North Carolina claims, by the act of 1818, it was then but a remnant of a country which once presented the choicest spoils to the grasp of the warrant-holder. But now, since it has been exposed to a second visitation of locators, surveyors, and professed land speculators—with claims in their hands of between one and two millions of acres in amount, and skilled by thirty years of experience in detecting the best lands, wheresoever situated—in the plains, between the spurs of hills and mountains, or upon the margin of creeks and rivers, the residue of tillable lands can neither be considerable in extent nor valuable in quality, and it is this residue which is now asked to be relinquished. In the section of country under consideration, not one acre has been reserved for the use of schools.

In whatever of argument I have advanced in support of the present application, it will be observed that I have placed it upon the ground of right. But independently of any obligation on the part of Congress, to provide for the maintenance of public schools in Tennessee, the relinquishment which is sought may be pressed upon other grounds, addressing themselves equally to the justice of Congress. All that the State of Tennessee has received from the sale of lands heretofore ceded by Congress, in the eastern and middle sections of the State, and all that the most prudent management of her legislature and officers can glean from the sale of the mere scraps of good land, now asked to be ceded to her, would not more than compensate for the protracted and expensive legislation which has attended the settlement and satisfaction of that torrent of claims which has continued to pour in upon her from North Carolina, for the last 20 or 30 years. A million of dollars, paid directly from your Treas-

ury, would be but a poor remuneration for having all the springs of improvement relaxed, and all the sources of her strength diminished and drained, by the most expensive, dilatory, and vexatious litigation, that ever visited its curses upon any people. Sir, if Congress had taken upon itself the management and appropriation of the vacant lands in the territory ceded by North Carolina, as it did of the territory ceded by Virginia, long since would all claim to every inch of the soil of Tennessee have been gladly relinquished: and if no escape could have been effected upon these terms, from the continued calls which would have been made for the interference of Congress, in making new regulations, or revising the old ones, in relation to these lands, an exemption would have been purchased, and purchased cheaply too, by giving an additional uncumbered territory from the great stock of the national domain to be distributed among the hungry and often averse claimants, whose appetite the State of Tennessee seems at length to have allayed, with perhaps one or two exceptions, without going beyond the bounds of her own territory. I am sure, if the federal judiciary had been drawn in to fix the construction of all the laws Congress would have found it necessary to pass in relation to these lands, and to settle all the controversies which would have arisen under them, suitors of every other description and from every other quarter would have been blocked out of that tribunal for a quarter of a century.

WEDNESDAY, April 30.

*Affairs with Brazil.*

The resolution, offered on Monday, by Mr. COULTER, of Pennsylvania, came up.

Mr. EVERETT observed, that had he concluded the remarks which he was yesterday making, when the hour appropriated to this kind of business expired, he should probably have expressed his intention to waive his opposition to the passage of the resolution. Although not requiring the information for his own satisfaction, nor deeming the call, in reference to all its objects, wholly regular, yet the doubts suggested by the gentleman who moved the resolution, on the subject of our relations with Brazil, had brought him to the conclusion, that the resolution had better pass, with a view of bringing before the House a full statement of the real posture of our affairs in that quarter, as far as existing negotiations may permit. Before he sat down, he begged leave to correct an error, into which he had inadvertently fallen, in stating the time of the appointment of the present *Chargé d'Affaires* at the court of Brazil, which was not, of course, during the last session of Congress, inasmuch as Mr. Raguét did not return to this country till three or four months after the close of the session. The error was of no moment to Mr. E.'s

Mar, 1828.]

*Boundary Lines, &c.*

[H. OF R.]

course of argument, which was strengthened by thus reducing the time that had elapsed since the appointment of the Chargé d'Affaires; he corrected it merely for the sake of accuracy.

Mr. COULTER, rising in reply, said that he was so much gratified by learning that the gentleman from Massachusetts would assent to the resolution, that he could be contented to waive all further discussion, and would only make an observation or two by way of explanation, which seemed to be called for by the remarks which that gentleman had yesterday addressed to the House. It was far from my intention, said Mr. C., at all to censure the Committee of Foreign Relations on the subject of their report upon the memorial of Condé Ragnet. All I meant to convey was, that I was not quite satisfied with the mode in which they arrived at the conclusion to which they came on that subject. Their report disclosed no facts which could enable them to judge whether his conduct had been proper or otherwise. The committee appeared to have gone solely on the ground that the President of the United States did not disapprove of it. Sir, I am aware, that, under the Governments of Europe, and in England particularly, where the king is the supreme fountain of honor, that all the officers of Government look to his approbation as their highest reward, and appeal to it, in all emergencies, as a full and complete vindication. But, in this country, there resides another sovereign, to whose decision every citizen looks as the highest that can be given. That sovereign is the people of these United States; but their judgment can never be given in an enlightened manner unless they are put in possession of the facts, on which alone it can be made up. But, though I do not censure the committee for their report, yet I think that the officer in question has some reason to be dissatisfied. The President, as the committee truly say, did not disapprove of his conduct; but this is only a negative sort of approbation, and its value cannot but be much impaired by the fact that a person was appointed to succeed him, even before he returned to his country, or had any opportunity in person to give an account of his official conduct. Still, sir, I am free to acknowledge that my judgment, upon such case, can be but of slight consideration indeed when set in opposition to that of the Committee of Foreign Relations; and I well know that this House will be justified, and so will the nation, in taking their opinion, in preference to mine. There is one other observation of the gentleman from Massachusetts, which I am bound to notice. He stated, if I understand him correctly, that my object appeared to be, to call in question the conduct of the President of the United States in this affair. Sir, that was far from my intention; on the contrary, I only wished to elicit information which might disencumber the reputation of that Department from suspicion or censure, if not deserved. I wished to draw

out the whole facts of the case; and, sir, I hope the time will never come when the Executive of this Union shall have his conduct improperly called in question, by a mere inquiry as to what that conduct has been. The gentleman from Massachusetts appears to be confident, that, when all the facts shall be disclosed, no censure will attach to the President. If that proves to be the case, I shall sincerely rejoice, since I never desire to censure any one without the requisite information as to what his conduct has been. As these are topics connected with the reputation of my Government, and through that Government with the reputation of my country, I hope I shall not be considered as having travelled out of the record, either in offering my resolution, or in accompanying it with the remarks which I have made. The resolution was adopted.

THURSDAY, May 1.

*Land Claims in Tennessee.*

The House then proceeded to the consideration of the Tennessee land bill.

Mr. WICKLIFFE, after comparing the debate yesterday on the part of the Representatives from Ohio and Tennessee, to a squabble between two sisters as to the comparative value of their patrimony, and expressing his belief, that a further discussion of the bill could lead to no good result, moved that it be laid upon the table.

On this motion, Mr. CONNER asked the yeas and nays, and being taken, they stood—yeas 181, nays 64.

*Boundary Lines, &c.*

On motion of Mr. STRONG, the House then went into Committee of the Whole on the state of the Union, Mr. TAYLOR in the chair, and took up the bill "for ascertaining the latitude of the Southern Bend, or extreme of Lake Michigan, and of certain other points, for the purpose, thereafter, of fixing the true northern boundary lines of the States of Ohio, Indiana, and Illinois."

Mr. STRONG briefly stated the object and the necessity of this bill. After referring to the controversy which had existed in relation to this boundary line, he stated the ordinance of 1787, by which the southern extremity of Lake Michigan was fixed upon as the point through which a line east and west should be run, separating the northern from the southern sections of the Northwestern Territory. It was, at that time, supposed that such a line running eastward, would cut Lake Erie somewhere between Detroit and the Miami Bay. Several surveys had been made, but they did not agree. He hence inferred the necessity of fixing, with perfect accuracy, the latitude of the south extremity of Lake Michigan; and also, the point where that parallel of latitude would strike Lake Erie. It was also necessary to ascertain where the northern bound of Indiana would

cut the Territory of Michigan, and it was of yet more consequence, especially at this time, to determine the true position of the north line of Illinois. That State had been authorized to go as far north on the left bank of Lake Michigan, as 82 degrees, 30 minutes; but very different opinions were held as to the precise point where that parallel would strike the Mississippi River. Yet, this was a point very necessary to be fixed, since that line passed through, or very nearly approached, a district of country full of lead mines, where there were already between six and seven thousand inhabitants, most of them engaged in digging for ore. Emigrants were flocking fast to the spot, and there was reason to believe, that the number this summer would be swelled to twelve thousand. These people were now in a great measure without law, because it was uncertain under what jurisdiction they lay. The land they occupied was claimed on the one side by Illinois, and on the other by Michigan, and much difficulty and embarrassment was experienced in consequence. The bill did not go definitively to compromise the question of jurisdiction, but merely provided means to ascertain the geographical fact as to the true position of this line, for which purpose it provided a commission, furnished with all the necessary apparatus.

Mr. SILAS WOOD, observing that the bill prohibited the use of the magnetic needle in fixing this line, inquired the reason; to which

Mr. STRONG replied, that it had been fully ascertained, and was now conceded, that a perfectly straight line could not be run by the compass, but must be laid on astronomical principles. Various instruments would enable the commissioners to run such a line: either the plane table or the zenith sector, were sufficient for this purpose; but the best of all modes was that of a trigonometrical survey. This was at once the cheapest and the most certain mode, and was liable to no danger from the vicinity of iron beds, &c., which would affect the needle.

Mr. S. then moved a slight amendment, which being agreed to, the bill was laid aside.

*Indian Appropriations—Georgia and North Carolina.*

The committee proceeded to consider the amendments of the Senate to the bill making appropriations for the Indian Department.

The first amendment being under consideration, in the words following:

To the end of the following item: "And the sum of \$50,000 be, and the same is hereby, appropriated to enable the President of the United States to carry into effect the articles of agreement and cession, entered into on the 24th of April, 1802, between the United States and the State of Georgia, which sum of money shall be applied under the direction of the President of the United States, to the extinguishment of the claims of the Cherokee In-

dians, to all the lands which they occupy within the limits of said State."

Add the following: "And to the extinguishment of the claim of the Cherokee Indians to the lands they occupy within the State of North Carolina."

Mr. MCCOY wished for information, as to any obligations under which the United States lay to extinguish the Indian land titles in North Carolina. He wished, also, to know whether the Cherokee Indians in that State were willing to sell their lands?

Mr. CARSON, in reply to these inquiries, went into a full statement of the facts of the case, which are in substance as follows:

During the revolution, the State of North Carolina was engaged in an Indian war, the result of which was a conquest of the Cherokees, and an arrangement by which they were located on certain lands within the State, the possession of which was guaranteed to them for hunting grounds. In 1785, the General Government took into its own hands the entire control of these Indians, (contrary to the express will and protest of the State,) and guaranteed to them possession of the lands they held. In the meanwhile, the land was sold by the State, and a collision arose, which terminated by the Treaty of Holston, in 1791, by which the General Government conveyed to the Indians the fee of their land, and prohibited them from making any treaty concerning it with North Carolina, or any other sovereignty, but the United States alone. Mr. C. concluded that this was an unwarrantable and illegal act, by which an encumbrance was placed upon the State of North Carolina, contrary to her most solemn protest, and the General Government was therefore bound to make good the money which that State was obliged afterwards to pay, in order to extinguish the Indian title, and make good the land to those who had bought it of the State. He dwelt on the liberality which North Carolina had displayed towards the United States, in the cession of all her western territory, (now the State of Tennessee, and then supposed to extend to the Pacific Ocean,) with no other condition than the payment of her Militia Land Warrants.

Mr. LUMPKIN said, the bill on the table, as it passed the House, set apart \$50,000 to enable the President of the United States to extinguish the Cherokee claim to all the lands which they occupy within the limits of Georgia, and thereby fulfil a long-delayed obligation on the part of the United States. Now, sir, said Mr. L., the amendment of the Senate proposes, also, to extinguish the Cherokee title to all the lands within the limits of the State of North Carolina—this, too, is to be done out of the sum set apart by this House, for the specific purpose of enabling this Government to fulfil its obligations to the State of Georgia.

Mr. L. said: Sir, while I express a confident hope that this committee will refuse to concur with the Senate in placing North Carolina (on

MAY, 1838.]

*Indian Appropriations—Georgia and North Carolina.*

[H. OF R.]

this occasion) upon an equal footing with Georgia—I wish to be distinctly understood, as entertaining none but the kindest feelings towards North Carolina. He said, while he protested against the interest and wishes of North Carolina being attached to the just claims and demands of Georgia, as an unnatural alliance, which would place the wishes and interest of one State upon an equal footing with the just demands and rights of another, he would again repeat, that he entertained all the friendly feelings of a good neighbor to that State. He highly respected her Representatives with whom he was associated here, as well as the people they represented.

Mr. L. said, as a Representative of the people of Georgia, he felt it to be an imperious duty which devolved on him, upon this and all similar occasions, to vindicate the rights and interests of the State, and not suffer himself to be led astray, by a compromising spirit of condescension to his good neighbors. Mr. L. said, this item of fifty thousand dollars was incorporated in that bill, at his instance, and as the phraseology will show, for the express and sole purpose of extinguishing the Cherokee claims to the lands which they occupy within the limits of Georgia, and thereby satisfy her, and fulfil a contract, which this Government bound itself to perform, more than a quarter of a century ago. The propriety of this appropriation, so far as it relates to Georgia, has, at the present session of Congress, underwent the scrutiny and investigation of two standing committees of this House—was then discussed in Committee of the whole House—and lastly by the House itself; and has been sanctioned by all with a very near approach to unanimity. It was sent in this form to the other branch of the Legislature. It is now returned to us with this amendment, including North Carolina, and that, too, without the subject of extinguishing Indian title within that State being even submitted to the consideration of this House, or any one of its committees. Sir, this is joining together that which should be kept asunder. As well might Tennessee and Alabama propose to be included with Georgia; and thereby further delay the just demands of Georgia, which have so often been a fruitful subject of irritation and conflict between that State and this Government. The claims of Georgia upon this Government to extinguish the Cherokee title, as soon as it can be done on reasonable and peaceable terms, is imperative; and that it may be accomplished upon such terms as I consider reasonable and peaceable, I have strong confidence, if the proper means be resorted to by this Government; but, I am not prepared to concur in the attempt to extinguish the Cherokee title to any lands in the other States, until the compact with Georgia is completed by this Government. This policy of extinguishing the Cherokee title, in the adjoining States, has already thrown the largest portion of the Cherokee population on the territo-

ry of Georgia, and has been the principal cause of the disability of this Government to comply with its obligations to Georgia; in this is to be found the want of good faith on the part of this Government.

Mr. Chairman: It is true that I am decidedly in favor of the emigration plan, and believe the Indians can never prosper while they remain in any of the States or Territories of this Union. And I shall never be content until I see them planted in permanent and good homes west of the Mississippi River, and then I would never "leave them nor forsake them," until I made them as comfortable and happy as any township or village in New England. With all due regard to the interest of other States, in which the Cherokees reside, I hope they will not consider me as illiberal, or bearing upon their interests, while I protest against extinguishing the Cherokee title to one acre of land in any of those States, until the demands of Georgia upon this Government be fully and completely complied with, as contained in the compact of 1802.

Should I fail of success in my views, in relation to the emigration of the Indians generally, nevertheless I feel assured that justice may be extended to Georgia, by removing the Indians from her soil, and settling them in the territory which they occupy in other States, where the right of soil is admitted to be in the United States. Yes, sir, this can be done without violence to the rights, interest, and prosperity, of the Cherokee Indians: for I speak advisedly when I state to this committee, that the Cherokee Indians claim lands out of the limits of Georgia sufficient in extent and quality to sustain them in comfort for a century to come.

Mr. Chairman, I consider this amendment of the Senate injurious to the interests of Georgia. I consider it an untimely appendage, calculated, in some degree, to retard the fulfilment of the obligations of this Government to the State of Georgia. I, therefore, with great confidence, look to this committee, and this House, and trust they will refuse to concur with the Senate in their proposed amendment.

Mr. CARSON replied, insisting that the amendment went merely to extend the power of the Commissioners, who should be appointed to treat with the Cherokees, in such a manner that they might include the land in North Carolina, if the Indians there should be willing to sell it. He acknowledged that Georgia had a claim of a specific character—such as no other State could advance; but though North Carolina had not put forward her claim in the land when she ceded her territory, yet it was equally binding on every equitable ground. If she had received her proportion of the general proceeds of the western domain, she would long before have received more than enough to extinguish the whole of the Cherokee title within her bounds.

Mr. MITCHELL, of Tennessee, thought that

this discussion was wholly unnecessary, inasmuch as the Cherokees, who were spread through the four States of North Carolina, Georgia, Tennessee, and Alabama, when they met in council to make a treaty, neither knew nor cared any thing about our State boundary lines, but considered their own territory as one whole; and if they agreed to dispose of any part of it, would be guided by their own interest in determining what particular portion they would part with. The power of the Commissioners was one thing; and an appropriation for their expenses was another. The treaty would cost no more if the lands ceded lay within twenty States, than if they lay all in one.

Mr. McDUFFIE now stated, that the public business was suffering from delay, and pressed for a speedy decision; whereupon, Messrs. LUMPKIN and CARSON consented to waive any further discussion, and allow the question on the amendment at once to be taken.

Mr. S. WOOD, of New York, denied that the United States were under any obligation to extinguish Indian titles within the limits of any of the States, except Georgia, she having made a compact to that effect when she ceded her lands. In other States, although an officer of the United States was necessarily present to see that no improper advantages were taken of the Indians, and although, perhaps, the United States paid the expenses of the treaty, yet the consideration money was always furnished by the State, and not by the General Government. This was the first instance with which he was acquainted, where such a thing had been demanded or proposed.

Mr. SHEPPARD expressed his regret and surprise, that the amendment under consideration should be met by the opposition of the honorable gentleman from Georgia, (Mr. LUMPKIN;) for, said Mr. S., though it is true, that North Carolina does not present herself, claiming the extinguishment of the Indian title within her limits, under any express contract, like that which Georgia rightfully sets up; yet, said Mr. S., by a slight consideration of the question, it will appear, that there are strong reasons why North Carolina should share in the benefit proposed to Georgia. Nor, said he, can her claim to a favorable consideration be weakened in the estimation of the committee, because she has not heretofore importuned the nation on this subject, nor disturbed the quiet of the Indians resident within her limits, but towards whom, Mr. S. remarked, that he was proud to say, his State had ever been disposed to act with due regard to the principles of humanity and justice. A strong illustration, said Mr. S., of the truth of this remark will be afforded, when the committee come to consider the farther amendment, which proposes refunding to North Carolina the money paid by her for the extinguishment of the Indian reservations.

North Carolina, said Mr. S., possessing a vast extent of western territory, in the year 1789, ceded it to the General Government,

with no other reservation, in her own favor, than the mere privilege or right of satisfying, out of it, the debts due her citizens for military and other services, rendered in the war of the revolution; and even the attainment of this stipulation was, by subsequent events, retarded and embarrassed with many difficulties. Having thus liberally given, North Carolina, said Mr. S., now comes, merely to ask that she may have the honor and benefit of being associated with Georgia in the extinguishment of the remnant of the Indian title within her at present contracted limits; for this, said he, no additional appropriation is asked, nor can the allowance of the request jeopardize, in any way, the just pretensions of Georgia; whilst its rejection may, and in all probability will, lead still farther to increase the burthens already imposed upon her, by the injurious action of the General Government, in relation to this subject. There is no principle, said Mr. S., more fully illustrated by the melancholy history of the aborigines of this country, than that of their persevering adherence to the name and character of tribe or nation. Yea, Mr. Chairman; to this rallying point of distinction they are seen to cleave, when scarce a vestige of national existence remains. Extinguish, then, said Mr. S., the Indian title in Georgia alone, and the natural consequences will be, that those whom you drive from their miserable abode, in that State, will seek to unite with the remnant of their tribe remaining in North Carolina. Mr. S. adverted to the treaties of 1785 and 1791, by which the Government of the United States has bound the nation of the Cherokees to treat with no individual State; and remarked, that, while he was not disposed to condemn that policy which placed the Indian tribes under the exclusive care of the General Government, yet, said Mr. S., it certainly imposes upon that Government the obligation of extinguishing the Indian title to the lands lying within the individual States. He said, that, by the treaties of 1817 and 1819, it was no doubt the intention of the Executive of the United States to have performed this implied obligation, and that the failure to do so was merely attributable to a misapprehension of the western and southern boundary of North Carolina. There yet, said Mr. S., remains a small extent of territory in possession of the Cherokees, unimportant, indeed, in itself, but highly desirable in relation to the integral character of the State. He hoped that this little nook or corner would not be denied to North Carolina—she who had, by the donation already referred to, endowed the General Government with a fertile and extensive region, from which had long since sprung into existence a flourishing and fast populating State—one that does honor to this Union. Mr. S. concluded by expressing his regret that he should have felt it his duty to detain the committee, even for a moment, and that, too, at a time when the honorable gentleman from South Carolina (Mr. McDur-

MAY, 1828.]

*Indian Appropriations*

[H. OF R.]

men) had expressed a laudable desire to close the discussion.

Mr. McCoy made some observations in opposition to the principle of the amendment—insisting that New York was put on the same ground with North Carolina, and the same course ought to be pursued towards both. He believed that North Carolina was not suffering any very great inconvenience from the Indians—and he was opposed to the scheme of removing them to the west of the Mississippi.

The question was taken on the first amendment of the Senate, and decided in the affirmative—ayes 55, noes 54.

The question then recurring on the Senate's second amendment, which is in the words following:

"For refunding to the State of North Carolina the amount expended by her in extinguishing the title of certain Indians of the Cherokee tribe, to reservations of land within the limits of said State, granted to them in fee simple, by treaties with the United States in the years 1817 and 1819, the sum of 22,000 dollars."

It was decided in the affirmative—ayes 77, noes 45.

#### *Naturalisation Laws.*

Mr. BUCHANAN moved the consideration of the bill "to amend the acts concerning Naturalization."

Mr. B. said he would briefly state the reasons which had induced the Judiciary Committee to report this bill to the House. Under the existing law, an alien cannot be naturalized unless he has resided for five years within the limits of the United States. He must, when he applies to be naturalized, prove his residence by disinterested testimony; his own oath is not allowed for this purpose. In addition, he must exhibit a certificate that he had declared, in a Court of Record, at least two years before his application, that it was his intention to become a citizen, and to renounce his allegiance to the Government from which he came. The bill will not interfere with either of these provisions. The existing laws require, in addition to these provisions, that the alien should produce a certificate that he had gone before a Court of Record, and registered himself; and this certificate is to be the evidence of the time of his arrival within the United States. The act of 23d March, 1816, farther requires that this certificate of registry shall be recited in the certificate of naturalization.

What has been the consequence? By a correct construction of these laws, no alien can be naturalized without a registry. This is the only evidence which the court can legally receive of the time of his arrival. In those cases, therefore, in which this practice prevails, if an alien has been ten years in the country, though his residence were notorious during all that time, still, if he has neglected to register himself, he cannot be naturalized until five years after his first application to the

court. This neglect is common, nay, almost universal; because aliens do not know the law, and would not, for some time after their arrival, conform to it, even if they did. But this law, like every other unreasonable one, is evaded. It sets up an arbitrary standard of evidence, to defeat the spirit of its own provisions. The consequence is, that some courts do, and others do not, carry this part of it into execution. In 1824, Congress yielded this provision, so far as to declare, that a certificate of naturalization, theretofore obtained, should be good, notwithstanding it did not recite this registry. The Committee on the Judiciary believed that it would be better at once to dispense with this registry. They thought it would simplify the law.

The second section provides for another class of cases. Every alien who has arrived in this country, since the 14th of April, 1802, must exhibit a certificate of the declaration of his intention to become a citizen, made two years before his application to be naturalized.

It was believed by the committee, that, if an alien could establish, by clear and indifferent testimony, that he had arrived in the country previous to the late war, (viz., the 18th June, 1812,) and continued to reside in it ever since, this condition might, in such case, with propriety, be dispensed with. We had reason to believe that there were many persons in the country, particularly Irishmen, who served as soldiers during the late war, who have hitherto neglected to make a declaration of their intention to become citizens; and we thought it right to provide for this class of cases, more especially as such persons must prove, by clear and indifferent testimony, that they have ever since resided within the United States. It is now nearly sixteen years since the declaration of that war. This section is in strict accordance with former precedents. By the act of 14th April, 1802, aliens resident in the United States between the 29th January, 1795, and 18th June, 1798, might, within two years after its passage, have become citizens, without any such declaration of their intention. Here the residence required was not quite six years. By the act of 26th March, 1804, aliens, who have resided in the country between the 18th June, 1798, and the 14th April, 1802, and have continued to reside in it, have a right to be naturalized, without producing such a certificate. Since 1804, we have passed no similar provision, although more than twenty-four years have since elapsed.

#### *Indian Appropriations.*

The committee then rose and reported these various bills to the House; and the question coming up on the concurrence of the House in the Senate's amendments to the appropriation bill for the Indian Department, the debate was again renewed on the first of those amendments, and conducted with great animation by Messrs. S. WOOD, OULPEPER, MALLARY, BRYAN,



FORT, MARVIN, P. P. BARBOUR, MEROER, WEEKS, and CARSON.

In the course of the debate, an incidental discussion arose as to the comparative merit of the several States in the cession of their public lands to the General Government. The conduct of Georgia, in requiring a price for hers, and in stipulating for the extinguishment of the Indian title, was attributed to a wise caution, which had been justified by subsequent events. That of Virginia was pronounced by her Representatives to have been generous and magnanimous in the highest degree, and was set in advantageous contrast with the cessions of States to the North and East, who had little or no land to cede.

This representation was repelled by gentlemen from those States. The original charters were appealed to, to show the extent of their title; but the merit of all the cessions was contended to be but small, inasmuch as the lands were, at that time, viewed rather in the light of an incumbrance.

Mr. MITCHELL, of Tennessee, moved the previous question. His motion was sustained by the House.

The previous question was then put and carried; and the main question on concurrence with the Senate's first amendment being then taken, it was decided by—yeas 60, nays 88.

So the House refused to concur.

The second amendment being considered, Mr. MITCHELL again demanded the previous question.

The House sustained his motion, and the main question being put, it was decided by—yeas 88, nays 70.

So the House disagreed to this amendment also.

[The following are the remarks of Messrs. BRYAN and FORT on the above subject:]

Mr. BRYAN said, that he felt a reluctance to address the committee at so late an hour, almost invincible; but he could not rest satisfied, after the remarks of the honorable gentleman from New York, (Mr. WOOD,) in which he challenged any person to make a discrimination between the case of North Carolina, and that of New York, as he stated it. Mr. B. said the cases were by no means parallel, and even the traces of resemblance were few and faint. Mr. B. here gave a history of the cession of her western territory by North Carolina to the General Government, clogged only with a provision for her liabilities and debts, contracted by her efforts in the war of the revolution, which, he contended, were equitably chargeable upon the Confederation, and not upon North Carolina alone, as they were contracted for the common benefit, and in the common cause. He contended that the claims of North Carolina, to have the Indian title extinguished within her boundaries, were as strong upon the General Government, in an equitable view, as those of Georgia; and said that, if there was any difference to the disadvantage of North

Carolina, it arose from the magnanimity and liberality of North Carolina, in not exacting it as a condition of her cession. She gave with confidence, and the General Government should not avail itself of that confidence, in its equity, to the prejudice of that State. Surely, it will not be contended that the General Government shall always stand upon its strictly legal rights, and say to North Carolina, that, although her claim is highly equitable, yet, that, as "it was not in the bond," it cannot be considered.

Mr. B. contended that, even in a strictly legal view, if gentlemen would consider it solely in that light, the General Government was estopped to say that North Carolina could not call upon her to extinguish the Indian title. He alluded to the treaty of Hopewell, in 1785; of Holston, and to the treaty of 1791, made by the United States with the Cherokees, by which treaties the United States took the Cherokees under their protection, and excluded, in express terms, any State or individual from treating with them. He referred, also, to the treaties of 1817, '18, and '19, whereby the United States not only undertook to treat with these Indians for the extinguishment of their title in North Carolina, Georgia, and Tennessee; but also undertook, and actually did cede to the Indians, fee simple rights to a large portion of the Territory of North Carolina, which North Carolina was competent to extinguish by buying out the Indian titles, or, in other words, by purchasing her own soil.

Mr. B. here reviewed the nature of the Indian title; which, he said, was defined by the Supreme Court of the United States, in several cases, and also by several of the State Courts, to be a mere *usufructuary* right, or right of temporary occupancy; but that the ultimate right, or fee simple, remained in the State. He referred, in confirmation of these decisions, to the fact that North Carolina had actually granted much of her territory before the Indian title was extinguished, and that many titles in Tennessee, particularly in what is called the Chickasaw Purchase, depend upon this right of North Carolina, as must be known to honorable gentlemen from that State. Mr. B. gave a sketch of the legislation of North Carolina relative to the Cherokee lands; that she was compelled to appropriate her own funds to purchase out these Indian titles, in fee, which the United States had wrongfully fixed upon her soil; and that the General Government, having done her this injury, by a high exercise of the treaty-making power, should redress her injury by making her compensation. Mr. B. disclaimed the idea of now discussing the powers of the Government in making treaties, or their application to Indian tribes within the chartered limits of a State. He said that it was sufficient for his present purpose to show that the property of North Carolina had been taken by it, and he confidently hoped and expected that a just compensation would be made her; that North Carolina had

Mar, 1838.]

*Contraventions of Russian Treaty in the Northwest.*

[H. OF R.]

been compelled to pay, as was stated by the committee who reported a bill upon the subject to this House, \$22,000, which he hoped would be refunded.

Mr. FOUR addressed the House as follows:

Mr. Speaker: Believing, as I do, that this body has the greatest disposition to do justice to the State of Georgia, I had intended to remain silent in this discussion. So fixed has been my determination to maintain this course, that I thought nothing could occur which would, at this time, cause me to open my mouth on the question. Sir, how often, on this and other occasions, have we heard the cry of the bond to Georgia, the bond to Georgia, the bond to Georgia! I have so often heard this subject drawn into the debates of this House, and, in my opinion, with so little justice or courtesy to those I represent here, that longer silence on my part would be criminal. We have been told that Virginia has acted with unexampled magnanimity; that North Carolina has covered herself with glory; that other States vied with them in their splendid concessions to the United States, and that they all gave freely, and without price; but, when it came to Georgia, she exacted a bond.

How stands the fact in this matter? What was Georgia at the close of the revolution? An infant in the cradle—not even in the gristle of childhood, far less the bone and sinew of manhood! Was it expedient to place her on the precise footing of the oldest States in the Union? Her sparse population, scattered along one of her borders, held an undisputed title to immense tracts of uncultivated lands, of unknown value. Was it expected that they should give up their title to all this country beyond their settled boundary? or was it not an indispensable and just policy to retain as much as would ensure them a permanent respectability, as a member of this Union? She gave up more than any State in the Union, Virginia excepted, and she gave what is more, a country of inestimable value, over which her sovereignty was undisputed. For this surrender of territory she demanded a price, and exacted a bond, which she had a clear right to do. And how have the conditions of this bond been fulfilled by this Government? By first extinguishing the titles of these tribes in every other quarter, and crowding them into the bosom of Georgia for permanent location! And this was expected to be witnessed and borne meekly and patiently. Could the people of Georgia witness these things without irritation, or is there any justice in the reiterated charge of violence, brought against them? The permanent location of these tribes, on the most valuable part of her territory, can never be regarded, by Georgia, as any thing less than an attempt to keep her in a perpetual state of pupillage; and her sons cannot be expected to submit to it in silence.

I do not wish to detract from the high merit

of the States who made these concessions, nor to deny the inestimable benefits thus conferred on this Union; but I will remark, that there were conflicting claims set up to this territory by several of the States, and I must be allowed to believe that these claims could not have been adjusted by the States themselves. A surrender to the General Government was a measure of great prudence, and perhaps indispensable to the peace of the States who made it; nor will I exempt my own State from reasons of a like kind. She had, by her own legislation, covered immense tracts of her uncultivated lands with claims for soil, if not for sovereignty. And, so far am I from regretting the taking of the bond, that I think the getting rid of these claims forms her only excuse for yielding up the territory for any consideration. I will not pursue this subject, but cannot sit down without attempting to do justice to the State of Virginia. All that can be said of the disputes, as to the titles of our northwestern lands, cannot deprive her of a claim to the most extraordinary magnanimity; nor has she merited it in this instance alone. For more than twenty years her sons have predominated in the councils of the nation, and yet no solitary act of legislation has been passed for her benefit. On the contrary, by a course of legislation unfavorable to her interests, she has, in spite of her great advantages, withered on the map of this nation. If her policy, and that of this Government, which she has controlled, has been attended with these fatal results, I can never regret that Georgia has not followed her example.

FRIDAY, May 2.

*Contraventions of Russian Treaty in the Northwest.*

Mr. LIVINGSTON, from the Committee on the Judiciary, reported a bill "for the punishment of contraventions of the 5th article of the treaty between the United States and Russia;" which was twice read.

Mr. LIVINGSTON briefly explained the object and necessity of this bill. The object of it was to prevent the sale of liquors and fire-arms, by citizens of the United States, to the natives on the northwest coast of America, within the limits claimed on that coast by our Government, and its necessity arose from a stipulation in our treaty with Russia, by which both powers were bound to prohibit this traffic.

Mr. MALLARY suggested that the United States had not power, at present, on that coast, to carry the law into effect, if it should be passed. He also considered the penalties as inadequate to prevent the commission of the offence.

Mr. LIVINGSTON replied, that the want of physical power to put the law into execution, did not remove, or in anywise affect, the obligation of the United States, under the treaty, to pass such a law. The treaty required the

law to be passed. The passing of it was obligatory on the national faith, and although the offence might not be punished on the spot, yet it was punishable, should the perpetrators ever return into the limits of the United States, or within the sphere of its practicable jurisdiction. Laws which prohibited offences upon the high seas, had no penal operation where the offence was committed, but the penalty was inflicted when the offender returned home; and the United States was bound to prohibit and punish offences, whether the punishment could be inflicted on the spot or no.

Mr. VERPLANCK suggested that no court was specified in the act, before which the offence was to be cognizable.

Mr. P. P. BARBOUR said, that the discussion which had already taken place was sufficient to show that it was proper that the House should legislate upon this subject. The stipulation in the treaty was mutual, and it was the nature of all treaties, that, if one of the contracting parties refused or neglected to comply with its side of the bargain, the other party was thereby absolved from the obligation of the treaty. The treaty provided for the establishment of a line, on the respective sides of which, the two nations should inhibit the traffic in arms, spirits, and certain other articles usually disposed of to Indians, lest the natives might, thereby, be induced to do mischief to the subjects of one or other of the powers. As to the policy and obligation of such a measure, he presumed there was but one opinion. In regard to the penalty, though its amount seemed to be small, yet it must be recollected, that penalties were to be inflicted upon each offence. If liquors were sold, and the penalty exacted to-day, it might be exacted again, if liquors were sold to-morrow, and so *toties quoties*. For himself, he thought the penalty sufficient; but, if it were otherwise judged, its amount might readily be increased by an amendment. As to the question of practical jurisdiction, it was proper that the House should, at least, do what it could. The United States had stipulated to prohibit this traffic, and complaints had been made by Russia, that she failed to comply with this part of her engagement. Whether it was proper, at this time, to create a tribunal for the purpose of trying offences against this law, was a question which belonged to the House to determine. If they should consider that there was any necessity for a specific provision on this point, the case was provided for by the constitution, which provides that "the trial of all crimes, except in cases of impeachment, shall be by jury, and such trials shall be held in the State where the said crimes shall have been committed; but when not committed in any State, the trial shall be at such place or places as the Congress may, by law, have directed." The place was, therefore, within the reach of any amendment which the House might agree to. The law, however, would satisfy the treaty, as it now stood.

Mr. VERPLANCK made an inquiry, which was imperfectly heard by the reporter, but the substance of which was understood to be, whether, as the law now stood, the crimes prohibited by this act would not be within the jurisdiction of the Circuit or District Courts of the United States.

Mr. BARBOUR replied, that that did not, in his opinion, follow as of course. When a crime was committed within a State, then *ex necessitate* the trial must be held within that State; but when the crime was committed at a place within the jurisdiction of the United States, but not within any particular State, then the court having jurisdiction must be particularly designated by law.

Mr. TAYLOR could not perceive how the passing of this act would fulfil our treaty with Russia. He quoted the fifth article of that treaty, which stipulated that neither party should have power, in enforcing the prohibition of the trade in arms, spirits, &c., to search the vessels of the other nation, but each party is left at liberty to punish its own citizens in such manner as it may think fit. Now, the treaty itself, as the supreme law of the land, was a prohibition of this trade, binding upon all good citizens. The professed object of this bill was to enforce a penalty for the violation of this prohibition, but it provides no court which shall have jurisdiction of the offence. Its practical effect, therefore, would be nothing, and the matter would be left just where it was by the treaty. He was told that some amendment would be offered, assigning the jurisdiction to some court of the United States, but he believed that many difficulties would arise in the exercise of such law. He inquired whether any decree had been issued by the Emperor of Russia, inflicting penalties on these offences, and if it had, what those penalties were?

Mr. LIVINGSTON, in reply, observed, that this subject had been brought before Congress in consequence of a letter addressed by the Secretary of State to the Chairman of the Committee on the Judiciary, which stated, that the Emperor of Russia had enforced this prohibition by penalties. This letter did not state what those penalties were, but referred to a complaint made by the Russian Minister, that none had been imposed on the part of the United States. He called for the reading of this letter, and it was read accordingly.

Mr. P. P. BARBOUR offered the following amendment:

Sec. 2. *And be it further enacted*, That the Superior Courts in each of the Territorial Districts, and the Circuit Courts of the United States, of similar jurisdiction in criminal causes, in each District of the United States in which any offenders against this act shall be first apprehended, or brought for trial, shall have, and are hereby invested with, full power and authority to hear, try, and punish, all crimes, offences, and misdemeanors, against this act; such Courts proceeding therein in the same manner

MAY, 1838.]

*Indians in North Carolina, &c.*

[H. OF R.]

as if such crimes, offences, and misdemeanors, had been committed within the bounds of their respective Districts.

Mr. TAYLOR said, that he should like to know what had hitherto been the practice of the United States as to the trial of offences committed beyond the limits of any State, in the Indian country. If the practice was fixed, it might furnish a guide in the present case.

Mr. BARBOUR remarked that it was always competent to the United States to punish any offence of any of its citizens. A treaty was the supreme law of the land, and the infraction of it was a crime which ought to be punished. Wherever the territory of the United States extended, there its jurisdiction extended also. No difficulty, therefore, could arise as to the principle, and the only difficulty was, where the offence should be tried. The amendment he had offered, removed this, and, as he supposed, would leave the subject wholly unembarrassed.

Mr. LIVINGSTON suggested a slight alteration in the amendment, which was rendered necessary by the fact, that in some States there are two judicial districts.

Mr. STRONG, in reply to the inquiry of his colleague, (Mr. TAYLOR,) quoted the existing laws to show that crimes committed within the Indian Territory, and not within the limits of any State, are to be tried and punished in the State or Territory next adjoining.

Mr. MARVIN suggested that the amendment would not fully meet the case for which it was intended. It gave the jurisdiction of these offences to the District Court of that State where the offender should be first arrested, or into which he should first be brought, and it confines the jurisdiction exclusively to that State or Territory. Now it might happen, that such State might prove the most inconvenient part of the Union for the trial, in consequence of distance, expense of witnesses, &c. He thought the law ought to give to that court a discretionary power of removing the venue on the application either of the accused party, or of the Attorney of the United States.

Mr. BARBOUR replied, that this difficulty might be obviated by striking out the word "first" in the amendment which he had offered.

Mr. DRAYTON considered this as a matter of form, rather than any thing else, as it was not very probable that such offences would ever come to be tried in the United States. He suggested, however, the insertion into this law, of the second section of the act of 1807, regulating process in offences committed against Indians.

Mr. BARBOUR accepted this as a substitute for his amendment.

Mr. MARVIN moved to amend the section by adding the following clause:

"Unless upon the application of the Attorney of the United States, or of the party charged, the court

herein prescribed shall otherwise order; in which case the party charged shall give good and sufficient security to appear before the court so designated, which court is hereby vested with full power to try for said offence."

The amendment was rejected.

Mr. STRONG suggested that the bill, in its present form, was likely to prove inoperative. The crime it forbids is the selling of liquor, arms, &c., to the "natives." Nothing would be easier than to evade this law. Vessels freighted with the forbidden commodities might carry on the traffic through a Russian agent, or some other alien residing upon the coast, who would immediately dispose of the articles to the natives. Over such persons the United States had no power, and the law would remain a dead letter. He suggested the propriety of amending the bill by adding, after the word "natives," the words, "or other person or persons."

Mr. BARBOUR replied, that the law was as comprehensive as the treaty, and the United States were not bound to go any farther.

Mr. VANCE thought it would be unwise for the House to go into legislating on this matter until they had full information as to what had been done by the Russian Government on this subject; since, if we should make our law more severe than that of Russia, it might happen that our own citizens would thereby be thrown out of the trade, which was one of great value.

Mr. TUCKER, of South Carolina, finding that this discussion would occupy the whole hour allotted for reports and resolutions, and thereby preclude the consideration of the subject of adjournment, moved that the bill be laid upon the table; but the motion was negatived—ayes 62, noes 75. The amendment was adopted, and the bill, as amended, ordered to be engrossed for a third reading.

#### *Indians in North Carolina, &c.*

Mr. MARTIN said, that he was about to submit a motion which must be offered this morning, or not at all. It was for a reconsideration of the vote of the House, taken yesterday on one of the amendments of the Senate to the Indian appropriation bill. He meant that amendment which went to extend the treaty with the Cherokees to their lands in North Carolina, and which had been disagreed to by the House. He therefore moved to postpone the orders of the day, in order that a motion for reconsideration might be made and discussed.

Mr. M. was about to explain, at some length, the reasons why he wished the vote reconsidered, important facts having been developed, which, he was persuaded, would induce the House to reverse its decision, but he was arrested by the Chair, until the question of consideration should be decided.

Mr. CARSON suggested, that, inasmuch as a motion for reconsidering any vote of the House was confined by the rules, to the day on which

such vote had passed, and the day succeeding the motion, such motion, by its own right, took precedence, without the necessity of postponing the orders of the day.

The SPEAKER replied, that the uniform practice of the House had been otherwise, and that, unless the motion for reconsideration was made before the expiration of the first hour of the second day, it was wholly precluded.

The question was then put on postponing the orders of the day, (which motion can be carried only by a vote of two-thirds of the House, under a rule recently adopted,) and was decided by yeas and nays—yeas 114, nays 60. So the motion for reconsideration was negatived, a majority of two-thirds not voting in its favor.

Mr. MARTIN made a point of order, and insisted that it was in order, during any part of the day, to move the reconsideration of a vote of yesterday, inasmuch as the 39th and 41st rules of order, according to his understanding of them, allowed the whole of the second day for such a motion, and gave it precedence over the orders of the day. He quoted these two rules, in the following words:

39th. "When a motion has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof, on the same, or the succeeding day."

41st. "The unfinished business in which the House was engaged at the last preceding adjournment, shall have the preference in the orders of the day, and no motion on any other business shall be received, without special leave of the House, until the former is disposed of."

The SPEAKER repeated the decision he had formerly given, referring to repeated decisions of the House in confirmation of it, especially in the much-disputed case of the Missouri Question. The motion for reconsideration might, it is true, be made at any time on the second day, when such a motion would be in order; but it was in order only during the hour allotted for the consideration of morning business.

From this decision Mr. CARSON took an appeal to the House, and Mr. SUTHERLAND contended, that, inasmuch as the motion for reconsideration had respect to an amendment in a bill, it was in order during any part of the second day, when the discussion of bills was in order, unless the bill to which it related had been carried by the Clerk to the other branch of the Legislature. The farther discussion of the point of order, however, was arrested by a suggestion urged by Messrs. LITTLE and P. P. BARBOUR, that the disagreement of the House would have to go to the Senate, and the bill and amendments come back again from that body, when an opportunity for farther amendment would again be presented; whereupon Mr. CARSON withdrew his appeal.

Mr. P. P. BARBOUR then moved the following addition to the 39th rule of the House:

"And such motion shall take precedence of all other questions."

The said 39th rule proposed thus to be amended is in the words following:

"When a motion has been made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof, on the same or succeeding day."

SATURDAY, May 8.

*Madame Dubord's Case—Petition to bring back Slaves from Cuba.*

The only bill which occasioned much discussion was that for the relief of Anna Dubord, a lady of New Orleans, who, in the year 1819, left that city and went to Cuba for her health, (intending, should it be restored, to return to New Orleans,) and took with her thirteen slaves, chiefly females, who were attached to her person as domestic servants. Her husband, apprehending that some difficulty might occur in admitting these slaves to return within the United States, had a certified description of their persons filed with the Mayor of New Orleans, and provided witnesses who could swear to their identity. The experiment as to health not succeeding, Madame Dubord wished to return, but would not do so till it should be settled before she left Cuba, that her slaves might come home with her, together with their children, born on that island. On application being made to the collector of New Orleans, he considered the law prohibiting the importation of slaves into the United States, as peremptory, and refused to admit them. Whereupon, as she held the slaves in her own separate right, she applied to Congress for an act to allow them to return to the United States. The case has long been before Congress, and repeatedly referred to the Judiciary Committee, who always reported against the petition, until the present session, when a majority of that committee being in favor of it, reported the present bill.

The discussion, though animated, was conducted with good temper on all sides, and resulted in a refusal to have the bill engrossed for its third reading, by a vote of yeas 61, nays 70.

The claim of Madame Dubord was advocated by Messrs. LIVINGSTON, GURLEY, BRENT, P. P. BARBOUR, GORHAM, and WEEMS; and opposed by Messrs. WRIGHT, of Ohio, BUCHANAN, STORES, and TAYLOR.

It was advocated on the ground that it was the right of every citizen of the United States, wishing to travel for health, pleasure, or business, to take with him such servants as he chose, and to bring them back at pleasure, whether white or black; whether bond or free. In illustration of which principle, reference was had to the cases of our Ambassadors to Europe and South America, and also of our Naval Officers, all of whom took black servants with them, and were allowed, as a matter of course, to bring them back on their return. The law prohibiting the importation of slaves, never contemplated the case of such as had been

MAY, 1828.]

*Mint of the United States.*

[H. OF R.]

temporarily absent from the United States; but was intended to prohibit the slave trade, and prevent any increase from abroad to the mass of our slave population. This case did not violate the spirit of the law, even supposing it (which was not admitted) to be forbidden by its letter. And though these slaves had had children while abroad, these were to follow the condition of their parents, just as much as the children of free American citizens would; and these, everybody knew, were entitled to citizenship here, though they had been born during the temporary absence of their parents abroad.

Had these slaves never left the United States, they would probably have had the same number of children, so that the mass of American slave population would not be increased by their readmission. To these arguments were superadded a consideration of humanity, arising from the fact that slaves were much more humanely treated in the United States than in the West Indies.

It was contended, on the other side, that the law prohibiting the importation of slaves, like those for the security of the revenue, was to be construed in the most strict and rigid manner. The settled policy of this nation, (advocated as strenuously by Southern as by Northern statesmen,) was to reduce the amount of our slave population, as far as was consistent with the rights of their holders, and was not to be relaxed, unless on considerations of high and imperious necessity, or some great view of national policy. No such necessity existed here—it was, at the utmost, a case of individual hardship, to which a settled and vital course of policy was not to give way. But, in reality, the case was not a very hard one. The owner of the slaves had acted voluntarily, and not from any compulsion in taking these slaves out of the country; he had done it with a full knowledge of the law, as appears by the steps he took before hand; and though his wishes or interest may be crossed in his being refused liberty to bring them back, after a foreign residence of nine years, this was his misfortune, and he must submit to it. His disappointment was a far less evil than the risk of public injury that would result from easily relaxing the provisions of the law against the importation of slaves. Under the revenue laws, harder cases frequently arose, where goods were burnt or stolen, yet those laws were always enforced, because, otherwise, the door would be opened to numberless frauds and evasions. So, in the present case, if all slaves, with their offspring, were to be allowed to be imported, who had ever before resided in the United States, it would infallibly lead to the most injurious consequences. As to the case of the servants of our Ambassadors and naval officers, the argument amounted to nothing, inasmuch as, by the law of nations, the residence of a minister abroad was viewed as an integral part of his own country, and so was the deck of a national ship. Slaves, while in either place, were, in view of the law, still within the

United States; and these slaves might be used as sailors in the merchant service, and in that capacity, touch at foreign ports for a short time; the case being widely different from where they had been taken abroad to reside for five, six, and nine years together. As to the question which had been put by one of the advocates of the bill, whether its opponents would prohibit the return of slaves who had been kidnapped? It was answered in the negative. But that case was not at all applicable, because here they were taken out of the country from free choice, and with a knowledge that the law was thought to prohibit their return. In reply to the argument for humanity, it was said, first, that the Spanish laws were less severe as to the condition and treatment of slaves than those of Louisiana; and, secondly, if the case were otherwise, (as it was declared to be by a gentleman on the side of the bill, from personal knowledge, he insisting that whatever the laws might be on paper, that they were in fact a dead letter,) still, the argument went too far, since, if it proved any thing, it proved that slaves might be imported from any country where they were more severely treated than in the United States, a doctrine that would, at one stroke, abrogate the law entirely. And besides, as it seemed that these female slaves had contracted marriage ties in Cuba, to bring them back, and thus tear them from their husbands, would be any thing but humane.

TUESDAY, May 6.

*Mint of the United States.*

On motion of Mr. SERGEANT, the House proceeded to consider the bill "to continue the Mint at the City of Philadelphia, and for other purposes," and the House went into Committee of the Whole, Mr. LONG in the chair, on that bill.

Mr. S. briefly explained the provisions of the bill. The principal points of which were, that it provides for continuing the Mint at Philadelphia for an indefinite time, and also establishes the troy pound of England, as lately fixed, from a scientific investigation in that country, as the standard weight for gold and silver in the United States. Two provisions of minor importance were also included, one enabling the director of the Mint to appoint his own clerks and servants, without requiring, as heretofore, the concurrence of the President of the United States; and the other allowing assays to be made of metals at the mint, without confining these assays to bullion brought them for coinage.

Mr. VERPLANCK made some inquiries as to the difference between the troy pound established by the bill, and that heretofore in use. Our present standard, for the alloy of gold and silver, was not that of the commercial world, in consequence of which, our gold coins sold at a premium, and were immediately exported.

If the pound was much increased, this inconvenience would be increased in proportion.

Mr. SERGEANT replied and explained, stating the difference to be very inconsiderable, and not such as would have any injurious operation. The gentleman from New York could not but be aware, that a great and almost insuperable difficulty attended the fixing of any ratio of fineness in the coinage of a country, when the coin consisted of two different metals. It had been experienced as strongly in England, as in this country. No legislation could fix the changing relation of the value of gold and silver. It was a fact well authenticated, that an emission of three millions of sovereigns from the British mint, had wholly disappeared from the kingdom in three months. There seemed to be no other remedy, but to confine the current coin to one species alone.

Mr. VERPLANCK declared himself satisfied with this explanation, but expressed his hope that the entire subject of the national currency, and that of weights and measures, would soon be taken up by Congress, and finally adjusted. After some explanation between Messrs. LIVINGSTON and SERGEANT, as to the appointment of Clerks, &c., by the Director of the Mint, the committee rose and reported the bill to the House without amendment, when it was ordered to a third reading to-morrow.

#### *North Carolina Indians.*

The House proceeded to consider the amendments of the Senate to the bill making appropriation for the Indian Department, and the message received from that body, stated that they insisted on their second amendment to that bill, to wit:

"For refunding to the State of North Carolina the amount expended by her in extinguishing the title of certain Indians of the Cherokee tribe to reservations of land within the limits of said State, granted to them in fee simple, by treaties with the United States, in the years 1817 and 1819, the sum of \$23,000."

Mr. CARSON moved that the House do recede from its disagreement to that amendment.

The motion to recede was opposed by Messrs. CLARK and BUCKNER, and advocated by Messrs. ALSTON, CARSON, WEEMS, MITCHELL, of Tenn., and DRAYTON.

Mr. CARSON said: Nothing, Mr. Speaker, could have induced me to obtrude myself upon the indulgence of the House, at this late period of the session, but a sense of the responsibility which devolves upon me, as one of the Representatives of North Carolina. I am aware sir, that it will afford the House but little pleasure to listen to an argument of any length, upon this, or any other subject, at this time; and I beg leave to assure them, that it will afford me equally as little to inflict one upon them. But, sir, I hope I shall find an apology for the time I may occupy, in the subject now before us, in the opposition it has met with from the honorable member from Kentucky, (Mr. CLARK,) and

others, to not only solicit the indulgence but the attention of the House, while I endeavor to explain the grounds upon which this claim depends. The alarm, sir, which this claim appears to have conjured up in the imagination of certain gentlemen, and the objections to which they think it obnoxious, I am confident I shall be able to show are not only gratuitous, but wholly unfounded.

The most prominent objection of the gentleman from Kentucky, (Mr. CLARK,) is "that, if we pass this claim, it will be a precedent, by which other States can come in, and, with equal justice, demand similar remunerations from the Government"—and, by way of alarming our fears, we are told "that her Mammoth Majesty, the great State of New York, will come down upon us, and swallow up the Treasury." Sir, these objections exist only in the imagination of gentlemen, and not in fact; and I must be further permitted to say, that it seems to me, that gentlemen have racked their ingenuity to get up objections to this claim—and which, after being produced, would appear much better adapted to the quibbling special pleading of a County Court, than to the grave deliberations of a National Legislature; and I assure gentlemen, that I do not envy them any part of the distinction they may have obtained in their efforts against this measure.

Sir, no State in the Union has such strong claims upon the Government as North Carolina, with the exception of Georgia. And our claims are founded upon the following reasons:

During our Revolutionary struggle, it will be recollected, that the Cherokees seized that opportunity to wage war upon the frontier settlements of North Carolina. That State subdued them, and was at the whole expense of the expeditions fitted out against them. Some time in the year 1777 or '8, a Treaty was held by Commissioners on the part of that State, as an independent sovereignty, with that tribe of Indians, at Long Island, on the Holston River. This treaty I have never seen, myself, and, therefore, can only speak of it upon the authority of others; and it may admit of doubt whether it could now be found, inasmuch as printing presses were not known in that section of country at that day. But, if to be found at all, it will be in manuscript, in the archives of our State, or, what I think equally probable, among the old papers of a late distinguished citizen of my country, who was one of the Commissioners that held the treaty—I mean, sir, Col. Weightstle Avery, and this presumption is founded upon my knowledge of the correctness with which he transacted all his business, and his great care in the preservation of important papers.

But, sir, the fact of the existence of the treaty cannot be doubted, from the fact of North Carolina acting under its stipulations from the time of its ratification till the year 1785, when the General Government made a treaty called the treaty of Hopewell—is well known to all

MAY, 1828.]

*North Carolina Indians.*

[H. OF R.]

the citizens of North Carolina, who lived at that day, and by none better than my honorable colleague, (Mr. ALSTON,) who has already stated the fact.

It is also known to our Senators, and to Judge WHITE, from Tennessee, who stated the fact to the Senate, when this question was before them. By this treaty, North Carolina extinguished the Indian title to all the lands within her limits; she permitted the Indians, however, to hold as hunting grounds certain portions of the country as described by the treaty; over which, however, North Carolina assumed the control, and sold to her citizens considerable quantities of this country, subject to the Indian occupancy; and, sir, North Carolina went on in her own way, managing her Indians as best suited her interests, (as she had an undoubted right to do,) with reference, however, to their interest, as well as her own, and, sir, might have continued her control and management to this day, had it not been for the improper, nay, sir, the unjust interference of the Confederate Government. What did the Government do? Why, sir, in the year 1785, she extends her paternal care over those Indians, takes them from under the guardianship and control of North Carolina, and prohibits them from holding any treaty with any power on earth except themselves. But, further, sir, by the aforesaid treaty of 1785, this Government retrocedes to the Indians the very lands which they had previously ceded to North Carolina by the treaty of Long Island, before alluded to: and, what is more, sir, North Carolina entered her solemn protest against the interference of this Government between her and her Indians, at the time, and that protest is now of record in the archives of the other branch of Congress, and can be seen by any gentleman who will give himself the trouble to walk there and examine. Nor is this all: not content, Mr. Speaker, with giving away our lands, they were also graciously pleased to empower the Indians to cut the throats, or otherwise treat our citizens, who dare cross within their boundaries to disturb their rights, in any manner that to their discretion and humanity might seem fit. (See 5th Art. Treaty of Hopewell.) Nor does it stop here, sir: for so wonderfully anxious was the Government at that time to ensure the Indians against any injury to which they might by possibility be subjected from North Carolina, or even herself, that she, by treaty, authorized that nation to send a delegate here, who should take a seat upon this floor, and mingle in the councils of this nation; and, sir, if there is any virtue in the treaty of Hopewell, that nation can now send her delegate here, and we could not refuse him his seat: for that article of the treaty has never been repealed or altered by any subsequent treaty. (See 12th Art. Treaty of Hopewell.) I shall not stop now, Mr. Speaker, to inquire into or comment upon the very respectable figure the American Congress would cut, in the eyes of foreign powers, with some Cher-

okee Chief among us, assisting in our deliberations, and giving his aid in the directions of the councils of this nation. Matters went on in this disputed condition, between us and the Indians, till the adoption of the Federal Constitution, and the election of Gen. Washington as President. Mutual complaints were made to him upon the part of North Carolina, and the Indians: for North Carolina persisted in her right to her lands, and continued to sell, and her citizens continued to live on parts retroceded by the treaty of Hopewell. Gen. Washington appealed to the Senate to know whether he should send an armed force and remove the whites, or whether he should issue a commission and peaceably purchase out the claim of the Indians, which claim they held by the treaty of Hopewell. The Senate advised by all means to send a commission and hold a treaty. Said they, we have placed this incumbrance upon North Carolina, it is but just that we should remove it; and accordingly the treaty of 1791, held upon Holston River, was effected, and from that time to this, the Government has recognized and acknowledged the obligation she was under to remove the incumbrance, which, by her own officious, unjust acts, she imposed upon us; and hence the various treaties which the Government has made for the extinguishment of the Indian title in North Carolina, among which may be numbered, the treaty of Philadelphia, concluded in 1794, confirming the boundary established in 1791; also, the treaties of Tellico, concluded in October, 1798, &c., and the treaties of 1817 and 1819.

And now, sir, I demand of the gentleman from Kentucky and others, who have said "that New York and other States could come in, and, with equal justice, claim similar remunerations," when did New York, by treaty, extinguish all the Indian title to lands within her limits? And if she has done so, has the General Government retroceded it to the Indians, against the solemn protest of that State, as was done in the case of North Carolina? No, sir, this has never been done; and how it is, that gentlemen can get up here, and gravely state that New York or any other State, stands upon the same footing with North Carolina, as regards her claims upon the Government, is, to me, not only surprising, but utterly incomprehensible.

I repeat it again, Mr. Speaker, that no State in the Union has been treated in the same unjust manner by the Government, nor has any State in the Union acted with more loyalty, or dealt with a more liberal hand towards this Government, than has North Carolina.

But, sir, let us run the parallel of the comparative merits of the respective claims of New York and North Carolina, upon this Government, a little farther. The gentleman from New York (Mr. MARVIN) has said, (by way, I suppose, of setting up a claim upon the liberality of the Government,) "that New York ceded a vast tract of Western territory to the



General Government." This act of cession, Mr. Speaker, was assuredly, vastly liberal on the part of New York, especially when we consider that she had no title to the lands which she ceded. I have not read her act of cession, but I venture to say that her deed is only a quit-claim, or special conveyance, (as it is called in law,) conveying only that title which New York possessed, and which, in fact, was no title at all. Thus much, sir, for the extraordinary liberality of New York, so highly lauded by her faithful Representative, (Mr. MARVIN.) And now, sir, for the part which North Carolina acted in this drama of liberality, played off by the States. She did cede to the General Government, not lands to which she had no title, but lands to which she had a *bona fide*, undoubted, and unquestioned right; and that cession includes not only the whole State of Tennessee; but its western limits is bounded by the Pacific Ocean. And let us next inquire into the causes, sir, which induced her to part with this vast and almost boundless region of country, and see whether it does not impose an additional obligation upon this Government to reimburse her in any and every loss she may sustain by the acts of this Government, or by the residence of Indians upon her soil.

The moving causes are to be found in the preamble of her act of cession, which reads as follows:

"Whereas the United States, in Congress assembled, have repeatedly and earnestly recommended to the respective States in the Union, claiming or owning vacant western territory, to make cession of part of the same, as a further means, as well of hastening the extinguishment of the debt, as of establishing the harmony of the United States; and the inhabitants of the said western territory being also desirous that such cession should be made, in order to obtain a more ample protection than they have heretofore received; Now, this State being ever desirous of doing ample justice to the public creditors, as well as establishing the harmony of the United States, and complying with the reasonable desires of her citizens—Be it enacted," &c. Here follows the act of cession.

From this preamble, and the act of cession, Mr. Speaker, it is clearly manifest, that the great object which North Carolina had in view, in parting with her Western lands, was the extinguishment of the public debt, contracted in our Revolutionary struggle. And I here might pause, Mr. Speaker, to pay a just compliment to my State for her liberality, her magnanimity, and loyalty, to this Government, if indeed, sir, I had not seen ample reasons, in the investigations of this subject, to regret, to deeply regret, that she had ever parted with her Western territory. Although this act of hers must remain as a monument to the credit of North Carolina, while this Union exists, or the name of Tennessee is remembered, yet, I would to God, sir, that that monument had never been erected, and that this act had never appeared upon our statute books. Then could North Carolina have

reared her head among the proudest of her sister States. Then, sir, would her influence and her weight have been felt; and, instead of having assigned her the humble position of a follower, she would have proudly led the van. I hope, by these remarks, Mr. Speaker, that my friends from Tennessee would not understand me as wishing any injury to that State. Far from it, sir; for, while I regret that the parent State has parted with the dominion and soil of that fertile and desirable region, yet North Carolina does, and always will, feel a just pride in the recognition of that State as her daughter; and, at this time, sir, we must be permitted all the gratification and pleasure which a parent can derive from seeing her offspring the belle of the Union. And permit me to hope sir, that the old State will be pardoned for the part she may act, and the anxiety she may feel, in seeing the favorite son of a favorite daughter elevated to the first office in the gift of this nation.

But, sir, a further obligation on the part of the Government; to extinguish the Indian title to lands in North Carolina, results from the third reservation in her act of cession. That reservation is in the following words:

"Thirdly, that all the lands intended to be ceded by virtue of this act, to the United States of America, and not appropriated as before mentioned, shall be considered as a common fund, for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever."

Now, Mr. Speaker, I demand of this House, whether this Government did "faithfully dispose of the lands," according to this reservation? Sir, she did not; and, by the improper disposition of those lands, by this Government, North Carolina sustained an injury which cannot be repaired, not even by refunding this money, but by the extinguishment of all the Indian title to lands within her limits; for, if those lands had been faithfully disposed of, and North Carolina had received her just proportion, it would have been an amount far exceeding all that the Government have, or all that she ever can expend, in the extinguishment of Indian title within her limits. How, then, were those lands disposed of? They, sir, instead of being disposed of according to the terms of this reservation, were exclusively appropriated to the use of the State of Tennessee. This will be seen by the act of Congress of the year 1806, &c. As those lands were improperly disposed of, I am certainly as well satisfied that they were given to Tennessee, as I could have been by any other improper disposition of them. But my complaint is, sir, that, after North Carolina has suffered so much by the improper acts of the General Government towards her, that this House should hesitate to reimburse North Carolina in the money, which, by the wrongful

May, 1828.]

*North Carolina Indians.*

[H. OF R.]

act, and by the unjust assumption of power, on the part of this Government, she compelled North Carolina to pay. Yes, sir, an assumption of power, which, if justified and persisted in by this Government, then, farewell, a long farewell, to State rights, and to State Governments. No State, then, sir, can grant away her own lands; we must look to this National Government for all our land titles. I say national, sir; for the federate features of our Government will all have merged into that of a national; and a State Government, if, indeed, they should be in existence, will be merely nominal; for, take away the right of soil, as the right to grant the soil, then have you divested them of almost all the rights which are valuable, or worth having.

But, sir, I deem it superfluous to argue this point, for, surely, no gentleman on this floor could be so reckless of his reputation, as to hazard the opinion, that this Government has the right to grant fee simple titles to land within any of the original States. Yet, sir, the United States did, by the treaty of 1819, grant reservations of land, in fee simple, to certain Indians of the Cherokee tribe; and all the facts connected with this Government, and the conduct of North Carolina, relative to the grant, had been laid before this House, in the report from the Committee on Indian Affairs, which I had the honor to submit in the early part of the session, accompanied by a memorial from the Legislature of North Carolina; and trusting, therefore, that they are recollected by the House, I shall not again go into the details of them.

It has been said, however, sir, by way, I suppose, of justifying the Government in her improper act, "that North Carolina solicited this Government to make the treaty, and that she accepted the treaty after it was made," &c. It is the fact, Mr. Speaker, that North Carolina has been solicitous to have that incumbrance, which was improperly placed upon her, and imposed upon her too, against her solemn protest, removed, and, for that reason, has applied to this Government to take that off, which she put on. But, sir, by this treaty of 1819, instead of complying with the just requests of North Carolina, removing that incumbrance, they placed a greater one on us.

How is this? Why, sir, instead of extinguishing that peculiar kind of title which the Indians held in their land, which was only a possessory, or usufructuary right, and, in fact, all the title which they are capable of holding, according to the decision of the Supreme Court of the United States, and this can be seen in the report of the celebrated case of Fletcher vs. Peck, where the whole nature of their titles was thoroughly investigated—I say, sir, instead of extinguishing they altered, and converted that which was, previously, a mere possessory title into the best of all possible titles, that of a fee simple. Nor is this all; they have palmed upon North Carolina, endowed with all the

privileges, franchises, and immunities of citizens, those Indian reserves; a species of population which we did not want; a kind of people whose very nature forbids the possibility of our fraternizing with them; and, in short, a people, sir, we never can elevate to an equality with ourselves, until such changes have taken place in their habits, their morals, their education, and in their very nature, sir, which the most sanguine hopes of the philanthropist, for the amelioration of the condition of man, cannot anticipate for ages to come. But how did North Carolina act, under this additional injury of the United States? In justice to herself, sir, she should have taken and kept possession of the land, and left the Indians and this Government to have settled that matter between themselves: then she would not have suffered the rebuke of gentlemen upon this floor, for asking but justice from this Government. She, however, acted differently; she went pacifically to work, and, rather than violate the faith which the Indians had in the General Government, she applied her own money, and purchased out the Indians, and now appeals to the justice of Congress, to reimburse her in the amount paid; and, after this act of magnanimity and liberality, upon the part of North Carolina, it is humiliating, sir, to hear it tauntingly said, "that North Carolina was acting in her own wrong," in her liberal course towards this Government, and that she should not be permitted to take advantage of it. What, sir? Wrong to keep inviolate the faith of the Indians in this Government? Wrong to submit to an injury rather than fly in the face of the General Government, and bid defiance to her treaties? Sir, it may have been wrong in North Carolina; but, permit me to say, that the discussion of that question mainly depends upon the decision of this House, upon this question: for, should she give us the amount, North Carolina is justified; but, should she refuse it, it will then be for North Carolina to pursue a different course towards this Government, under similar circumstances, should they ever occur.

But, said the gentleman from Kentucky, (Mr. CLARK,) "there is no legal obligation upon this Government to refund this money, and, if there ever was, North Carolina has relinquished that right by her own acts, in the acceptance of the treaty, and the advancement of her money to purchase those reservations."

In answer to this, Mr. Speaker, I will say, that, should it be considered that the legal obligation is weakened, most assuredly the moral obligation, an obligation, sir, always recognized by honorable men, as much higher and more binding in its nature, has been greatly strengthened; and, instead of the policy of North Carolina being brought up here as forming an objection to her claims, it should be set down to her immortal honor, and should operate as an additional inducement to grant the remuneration which she now demands.

But, Mr. Speaker, as the gentlemen from Kentucky and New York (Mr. CLARK and Mr. MARVIN) appear to bow with such deference to the omnipotence of precedent, permit me to read, for the benefit of those gentlemen, a case, which I consider strictly in point.

By a treaty held with the Kickapoos, in the year 1819, the United States ceded to that nation a tract of country lying in the then Territory of Missouri, "to them and their heirs forever," (See book of Indian Treaties and laws, page 268, Article 6th.) This treaty was communicated to the Senate, and they refused to ratify that part, because it vested the Indians with a fee simple title, and the consequence was, that a supplemental treaty was made at the expense of the United States, by which the title intended to be conveyed by the 6th Article of the previous treaty, was altered so as to convey only the possessory kind of title, usual among Indians.

Now, sir, in this case, the Senate refused to ratify a treaty, by which a fee simple title to land (which she had the unquestionable right to convey, for it was within the Territory of Missouri) was guaranteed to the Indians, and caused that article to be altered. But, in the case of North Carolina, the treaty was ratified. Our lands were taken; and will this Government now say that she will refuse to pay us back the amount we have paid, after she has decided, by her refusal to ratify the treaty with the Kickapoos, that it was improper to invest Indians with any other title to lands, than that usually held among them? I hope not, sir. But, should she do so, it may teach North Carolina a salutary lesson—which will be, never again to extend her liberality to, or confide in a Government, which treats her kindness with such injustice: for, sir, had North Carolina been as provident of her interest as her sister State of Georgia, she now might have proudly demanded as a right, that which she only asks in justice.

My thanks, Mr. Speaker, due to the House for its kind indulgence, I tender to them most sincerely. And if any thing has escaped me, in the course of these remarks, which may be considered exceptionable by any gentleman present, I beg that it may be attributed to that zeal which I must be permitted to feel for the interest of my State: for, sir, it was foreign from my purpose to impugn the motives of any gentleman, however widely he may differ with me upon this subject.

Mr. STEWART moved the previous question.

The motion prevailed, ayes 92: and the previous question having been put, and carried, the main question on the receding of the House from its disagreement to the Senate's second amendment was then decided by—yeas 89, nays 70.

So the House agreed to recede from its disagreement to the Senate's amendment.

WEDNESDAY, May 7.

*Revolutionary Soldiers.*

Mr. TAYLOR moved to take up the bill for the relief of the surviving officers and soldiers of the Revolution. The committee agreed to this motion, and the bill was considered by sections.

Mr. MITCHELL, of Tennessee, moved to amend the first section by adding the following proviso:

"*Provided, also,* That no officer shall be entitled to any of the benefits of this act until he shall swear in due form, before some judge or justice of the peace, that he was not the owner or possessor of money or property, real or personal, clear of all incumbrances, and over and above the amount of debts which he owed, to the value of five thousand dollars, at the time of the passage of this act."

The amendment was warmly advocated by Mr. MITCHELL, of Tenn., and Mr. WILLIAMS, of N. C., and opposed with equal warmth by Messrs. DRAYTON, SPRAGUE, TAYLOR, CULPEPER, S. WOOD, LIVINGSTON, EVERETT, BAERNET, SERGEANT, BUNNER, and TUCKER, of New Jersey.

It was twice modified, first, by requiring, that the oath should state, that the applicant was not the owner or possessor of real or personal estate free of all incumbrance, over the value of five thousand dollars, and then by requiring farther, the addition of the words, "over and above all the debts he owed."

It was contended on the one side, that, as the officers had no legal claim, any grant that might be made them, was to be considered in the light of a gratuity, and if so, it ought not to be given except to those who were in needy circumstances. Some of the surviving officers were known to be very wealthy, and stood in no need of aid, and if the gratuity was to be graduated by the fixing of a certain sum, then it ought to be guarded in such a manner as to prevent fraudulent evasions of the law. Though the general character of the officers was highly respectable, there might be among them unworthy individuals, who would convey their property to their children, antedate deeds, and take other base means of imposing on the treasury. Though the number of officers was supposed to be small, it had never been correctly ascertained, and the number of claimants might turn out to be far greater than was now anticipated.

The amendment was opposed, on the ground that the officers had a valid claim against the Government, founded on contract, the Government never having complied with the promise it made to them, when they commuted their half pay for Government certificates; the full amount of those certificates had never been paid, either to the officers, or to those persons to whom the officers were compelled, by the pressure of necessity, to sell them; the Government had gained a large sum by funding these certificates, a sum much larger than would be granted by the effect of this bill, and was there-

MAY, 1828.]

*Revolutionary Soldiers.*

[H. OF R.]

fore bound in equity, as well as by express contract, to make some compensation; the appropriation would, therefore, not be a gratuity, but a mere act of ordinary justice, and it was, therefore, unjust in principle, to withhold it from any of those who were entitled to receive it, merely because, by industry or economy, they had been enabled to obtain a competency; it was neither delicate to them, nor creditable to the Government, when about to make some small compensation for services which were beyond all price, to require these aged veterans to expose their poverty under oath, and, besides, the sum proposed was perfectly arbitrary, and its adoption would have an unequal and oppressive operation in practice, since five thousand dollars, in some parts of the country, was worth to its owner double what it would be in other parts; and while it might be a competence to a single man, it would not be so to one burthened with an aged and infirm wife, or a large family of dependent children.

[The following is the only one of the speeches above referred to, which has been preserved.]

Mr. TUCKER, of New Jersey, said: Mr. Chairman, I did not intend to say a single word upon the subject before the committee, inasmuch as the cause of that illustrious band of heroes, the revolutionary officers, has been so ably and zealously portrayed by honorable gentlemen, at the last and present session, that little remains for the most intelligent to add.

It may therefore be thought arrogance in me to attempt to advocate or elucidate their claims, after such displays of eloquence in their most righteous and just cause. I shall therefore only briefly touch upon a point, on which the grand superstructure (in my opinion) the claim rests, and on which the cause must ultimately turn. Secondly, exhibit a calculation, showing how much is now legally due to each of the surviving officers of the revolution, and how much in the aggregate. And that I may be the better understood by the committee, I will state a single case of a captain within my own knowledge; and this case will be applicable to the whole.

It is the case of Captain Cyrus Dehart, of New Jersey, who served during the revolutionary war—and for the sake of argument, I will admit that he was settled with and paid every thing that was promised him by the various resolutions of the Confederation, down to the year 1783, when the army was disbanded.

I shall lay out of the question too, all losses by depreciations of the currency and certificates with which he was paid; the unparalleled sacrifices and sufferings of hunger and cold, and privations of every sort, during a seven years' doubtful and sanguinary war, and proceed briefly to the basis on which, as matter of legal right, the claim rests.

It would be almost superfluous, Mr. Chairman, to refer the committee to the solemn engagements entered into by the old Confederation with the officers of the army of the 21st of October, 1780, and the 22d of March, 1783, on

the final settlement of the parties; and I will here admit too, Mr. Chairman, that the officers were honestly and honorably settled with by the old Confederation, agreeably to the respective contracts of the parties; and that the officers respectively received a certificate for their respective dues, bearing interest at six per cent. payable annually; and it is not to be controverted, that that illustrious assemblage of sages and patriots composing the old Continental Congress, as far as the Confederation was pledged to the officers, scrupulously and honorably complied with their engagements; and I venture to say, that if the United States had acted with equal good faith, you would not have heard a murmur or complaint from the officers to this day.

But, Mr. Chairman, what are the facts? Sir, instead of paying the interest annually on those certificates, agreeably to the solemn contract of the parties, eight long years rolled around before a single cent, either of principal or interest, was paid; and this was in consequence of the inefficacy of the powers of the old Confederation, which were only recommendatory instead of coercive. Hence, the honest and honorable views and engagements of the old Continental Congress were paralyzed and prostrated; and hence the depression of the public securities, and the distress of the officers, growing out of that event. It is ascertained Mr. Chairman, that each captain for his five years' full pay, received a certificate for \$2,400, bearing interest at six per cent. payable annually, and such a certificate Captain Dehart received in lieu of his half pay for life, which run eight years without payment of interest as before stated, viz: From the first of January, 1783, to the first of January, 1791, the interest amounting on the latter day, to \$1,152, making in the aggregate \$3,552. It will be recollected that in March, 1789, the present Government went into operation, and in the year 1790, made provision for, and funded the public debt.

Well, sir, how did they provide for the payment of Captain Dehart's \$3,500 principal, and \$1,152 interest, due on the 1st of January, 1791? Why, sir, they gave him three certificates, one for \$1,600, being two-thirds of his principal, with interest at six per cent., and one for \$800, the other third of his debt, but deferred ten years without interest; and instead of paying Captain Dehart his \$1,152 down, or giving him paper at six per cent., they gave him a certificate for his \$1,152 interest redeemable at the pleasure of the United States, at three per cent. Let us now examine, Mr. Chairman, how this funding system operated upon my old friend Captain Dehart's honest dues, and consequently upon every officer's pay according to his rank:

First.—Loss of interest on 800 dollars deferred from 1st of January, 1791, to 1st of January, 1801, ten years at six per cent. - - - \$480 00

Second.—Interest on the above sum from

1st of January, 1801, to the 1st of January, 1828, twenty-seven years, at six per cent. 777 60

Third.—Loss of interest on the 1,152 dollars, of three per cents from 1st January, 1791, to the 1st January, 1828, thirty-seven years, at three per cent. 1,278 72

Total loss on Captain Dehart's pay down to this time, \$2,536 32

and in the same proportion upon every officer's pay or commutation according to his rank. It is ascertained, Mr. Chairman, that the pay of the officers of all grades, from a Major General down to an Ensign, will average the pay of a captain.

If then the loss on a Captain's pay by the operation of the funding system down to this time, amounts to \$2,536 32, what will the loss on the 240 officers amount to that are now living? Why, sir, to the sum of \$608,716 80, and this sum the United States are withholding from the officers now living, by the strong arm of power, contrary to common justice; and in contravention of the constitution by which you, Mr. Chairman, occupy that Chair. Let us for a moment examine into this case: It is self-evident that a solemn contract existed between the old Confederation and the officers of the army, and in accordance with contract, as has been shown, the old Confederation issued the paper in payment to those officers, which was accepted; and the question recurs—have the United States paid those certificates agreeably to the original contract with the confederation? I have shown Mr. Chairman, incontrovertibly, that they have not, and that the sum of \$2,536 32 is now due to each captain, and in the same proportion to every other officer, according to his rank, who remained in service to the close of the war; making in the aggregate \$608,716 80 due to the 240 officers now living.

The 6th article of the constitution of the United States reads as follows: "All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the Confederation;" hence it is apparent that the contract entered into by the Confederation with the officers of the army, is completely recognized by the Constitution of the United States.

I have said, Mr. Chairman, and I think I have shown conclusively, that you are withholding those moneys from the claimants, in violation of that venerable instrument under which you occupy that Chair, and in violation of every principle of justice between man and man, and in despite of the assurances of the immortal Washington to his brother officers, in the name of the Confederation, on the dissolution of the army; and, in my humble opinion, could the United States be brought into Court at the suit of the officers, you would be compelled to refund that which you now withhold by the strong arm of power.

The preceding calculations are predicated upon the acts of the whole Confederation, and of the United States, respectively, to which I have referred, and will, I presume bear the most scrutinizing examination. It may be alleged that I have calculated interest upon interest—be it so. But let it be recollected that the moment interest becomes due, and is paid, it merges in principal, and may be loaned the next day; and had the interest on Capt. Dehart's capital been punctually paid, and himself or his banker managed it in the ordinary way of loaning, it would have amounted to a larger sum than he claims from the Government, or that I allege the United States are indebted to him. Other views have been taken of the subject in relation to the contract of half pay for life; but it will be seen that my calculations are applicable to the non-performance of the contract for the five years' full pay, and is the fundamental basis, in my opinion, on which the claim rests. I may possibly have committed some slight errors in my calculations, but I believe they are substantially correct; and I flatter myself I have shown, irrefragably, that there is now legally due from the United States to every captain of the Revolutionary Army, that were in service at the close of the war, the sum of \$2,536 32, and to every other officer, in that proportion, according to his grade, that are now living: making, in the aggregate, the sum of \$608,716 80. Hence, Mr. Chairman, those officers do not come here asking a boon of this nation—they merely ask for even a part of their just dues, predicated upon a solemn contract with the Confederation, and as solemnly recognized by the Constitution of the United States.

How then, I will ask, Mr. Chairman, can you escape paying this balance? Will you tell me, that this vast empire is unable to pay her legal and just debts? This you cannot say, inasmuch as your resources are ample: and will you, under all the circumstances of the case, submit to the humiliating dilemma, and establish the fact, that the high-minded sons of the Revolutionary heroes of your country, shall suffer those aged heroes to pine in penury, in want, and depart from the stage of action, creditors of the United States? Surely not. Sir, you was not only just, but you was liberal to that distinguished and gallant foreign officer, Lafayette. It was well, and the nation responded to the noble deed. And, sir, will you refuse to do justice to your native officers, who fought gallantly by his side? I trust not.

It was said by an honorable gentleman from North Carolina, (Mr. ALSTON,) at the last session, in debate, that some or one of those officers were hanging upon the House in relation to their claim. Be it so; but permit me to remind the honorable gentleman of the lowering times that tried men's souls; when the States hung upon those officers for years, in awful suspense; when the fate of this empire was suspended as it were by a brittle thread; and had it been

MAY, 1828.]

*Revolutionary Soldiers.*

[H. OF R.]

severed as it was intended by the British ministry, and their hordes of mercenary troops, and subsidized Hessians which infested your shores, your fate was inevitably sealed; and you must have again returned to Colonial bondage and degradation, while your Hancocks, your Adamses, your Franklins, your Carrolls, and your Jeffersons, with your Washington and his brave compeers, (according to Gen. Gage,) were destined to the cord. But those undaunted heroes, with Washington for their leader, (though menaced with the halter,) laid their sabres at the root of the tree, and with a hard stroke, and a heavy stroke, and a stroke altogether, they felled the royal oak, and snatched from the British lion the brightest gem of his crown. And Mr. Chairman, what have been the fruits of their hazardous toils, and matchless achievements! Sir, twenty-four free, sovereign, independent States, and three organized Territories, your empire covering one-twelfth of the globe; your shores washed by the Atlantic and Pacific Oceans; your canvas whitening every sea; your flag revered by all nations; and your Union complete, prosperous, free, and happy; these are the fruits of the unwearied toils in the hour of danger, of these hangers on. Is it meet then, Mr. Chairman, that a distinguished officer,\* acting a distinguished part by the side of Washington, in that great drama of the Revolution, while attending here as agent for his brother officers, in pursuit of that justice which you have but too long denied, be stigmatized by the degrading epithet of dependant or hanger on? Sir, to me the idea is every way inadmissible, and I could charitably hope that it was rather a slip of the tongue of the honorable gentleman, than the spontaneous effusion of the heart. Be that as it may, and however the honorable gentleman may indulge in epithets, to the wounding of the feelings of those officers long smarting under their wrongs, for consolation, and to assuage their grief, I will venture to predict that, although the splendid flinty-marble columns which support that lofty dome, and ornaments this hall, may fall into decay, the sweet and cheering recollections of their meritorious services and brilliant achievements will live forever.

It is an old adage, Mr. Chairman, that although justice may sleep, she is always sure.

I can only say that as it respects the Revolutionary officers, she has slumbered for a long time; but I trust the hour is at hand when she will start from her slumbers, and prevent the famous Newburg anonymous letter writer's predictions being verified, viz: that if the Revolutionary army was disbanded previous to the officers being settled with and paid off, they would grow old in poverty, wretchedness, and contempt; that they would wade through the vile mire of dependence, and owe the miserable remnant of that life to charity, which had hitherto been spent in honor.

But, Mr. Chairman, what was the reply of the immortal Washington to those predictions? He says to his assembled officers, in the then New Buildings at Newburg, on the 15th March, 1783: "If those predictions of this anonymous letter writer are verified, then shall I have learned what ingratitude is—then shall I have realized a tale which will embitter every moment of my future life; but," proceeds the General, "I am under no such apprehensions: a country rescued from impending ruin by your arms, will never leave unpaid the debt of gratitude."

And, Mr. Chairman, the crisis has now arrived, and the decision of this House will settle the question, whether the famous Newburg anonymous letter writer's predictions, or the immortal Washington's shall be verified. In justice to the officers, and for the honor of the nation, I pray God the latter; and I will appeal to you, sir, and to the House, and ask you emphatically, if you can reconcile it with your duty to your country, and your God, to suffer one word of the promises and predictions of the immortal Washington to his brother officers upon that solemn occasion, to fall to the ground; nay, sir, so well am I satisfied of the justice and equity of this claim, that rather than record my name against it, I would adopt the language of one of old, let me be *anathema maranatha*.

Although the bill before you does not give the officers that which is justly their due, yet I will take it as the man takes his wife, for better for worse. Inasmuch as any amendment will be death to the bill; I hope, therefore, that no amendment will be agreed to.

One word more and I have done: what little you do then, Mr. Chairman, in behalf of those aged veterans, now bending under the hand of time, do quickly: time is flying, and life is on the wing. Do you not, almost weekly, hear the death-knell of one and another of those saviours of your country? And believe me, Mr. Chairman, you will not long have the opportunity of refunding any part of their just dues to the relief of their wants, inasmuch as in a few years they will, each and all, be cut down by the all-devouring scythe of time, and landed at that bourne from whence no traveller returns.

The amendment was negatived—ayes 81, noes 92.

Mr. GILMER moved to amend the first section of the bill, by restricting payment to those officers whose commissions bear date prior to the commencement of the year 1778.

Mr. G. supported his amendment by a short speech, in which he contended that, inasmuch as the bill was not even professed to be a compliance with the contract of 1780, it was removed from the ground of contract, and placed on that of gratuity, and if a gratuitous reward were to be distributed to the officers of the Revolutionary war, it was best deserved by those who had come forward in the early stages of that war, when the result of the contest was

\* Col. Aaron Ogden of N. J.

wholly doubtful, when individual responsibility was far greater than was incurred by those who entered the army when the contest was more advanced, when the whole nation became thoroughly involved, when foreign aid had been obtained, and when the prospect of a successful issue was much more probable. Of those who received the promise in 1780, many never so much as saw the face of an enemy in the field.

Mr. STERIGERE said, the claims of the Revolutionary officers had been before the nation for half a century. They were known and understood by almost every man in the nation, and he might add, their justice was admitted by almost every man in the nation. In his opinion there existed no doubt of their legality or justice. From the discussion of this question in Congress for several years past, he was convinced there was not a member on the floor who did not understand this subject as well now as he would after a week's debate.

Whether this bill granted the relief the Revolutionary officers were entitled to, was one question—whether any thing better could be now obtained, was another.

He thought it did not go far enough. But, from what had taken place in the other body, it was evident nothing better could be obtained now, and any attempt to obtain any thing better would be useless, and might end in the loss of this bill. As his colleague (Mr. SERGEANT) had very correctly observed, it was now a question whether this bill should pass or none. For one, he would not consent to hazard the fate of the bill by admitting amendment after amendment, and a protracted debate. If a majority of the House are determined to defeat the bill, it may as well be done immediately. If a majority are in favor of its passage, it was unnecessary to waste time in a useless discussion. He was sure that, whatever determination existed in the majority, that no debate which would take place would change that determination.

He believed a speedy decision would be favorable to the passage of the bill. Besides, there was much important business on our tables to be acted on, and the session was drawing near its close, and he thought the House owed it to those interested in that business, as well as to the nation, that the time should not be wasted in useless debate. From the vote which had just been taken, he believed that the House would not agree to any amendment, but was in favor of passing the bill in its present shape. Therefore, with a view to put an end to discussion, and to have the question decided, that the House could go to other business, he moved that the committee rise and report progress, declaring that if his motion prevailed, he should follow it up with another, to discharge the Committee of the Whole from the further consideration of the bill, that it might be acted on immediately in the House.

Mr. CLARK, of Kentucky, and Mr. MITCHELL, of Tennessee, successively requested the gentle-

man from Pennsylvania to withdraw his motion; one of them alluding to an amendment which he wished to offer, (as was understood in relation to the militia,) which would require an increase of appropriation, and could, therefore, be only considered in Committee of the Whole.

Mr. STERIGERE, in reply to Mr. CLARK, said, as the amendment of the gentleman from Georgia was pending, his amendment could not be received, if he were to withdraw his motion; and as his object was to prevent farther discussion and amendments, he could not consent to withdraw it, but would leave it to the committee to decide.

The committee rose, and reported the several bills which had been before them.

THURSDAY, May 8.

*Chesapeake and Ohio Canal.*

An engrossed bill, entitled "An act to amend and explain an act, entitled An act confirming an act of the Legislature of the State of Virginia, incorporating the Chesapeake and Ohio Canal Company, and an act of the State of Maryland, for the same purpose," was read the third time, passed, and sent to the Senate for concurrence.

The House then resumed the bill authorizing a subscription of Stock in the Chesapeake and Ohio Canal Company.

Mr. WICKLIFFE was one of those who voted for the law of 1824, authorizing the Executive to make certain surveys, with a view to national improvements; by which I understood works of a national character, in a commercial or military point of view. I gave my vote, on that occasion, from an honest conviction of duty; but with the express understanding, that the objects of a national kind could not be very numerous. My impression was, that they could scarce be over eight or ten, and I think it was so declared by those who advocated the passage of the bill on this floor.

If, sir, the bill of 1824 had proposed the survey of the ninety-one objects exhibited in this Schedule from the War Department, which I will presently read; if those who advocated this bill had been told it was to order the survey of Ashtabula Creek, Cunningham's Creek, and many other Creeks, Lake Memphramagog,\* and a host of small lakes and streams, of similar importance, I am inclined to think that they would have found more difficulty in obtaining the vote it received in this House.

Permit me now to read the List of Surveys commenced, with the cost for completing the works.

\* By the table and report from the War Department, it will be seen that the administration have commenced a survey of a route for a canal to "unite the waters of the Connecticut River with Memphramagog Lake in New Hampshire." Of the precise extent of this lake, its depth, and importance, I am not informed. We have a traditional story of this lake, that, at one time, it disappeared.—Note by Mr. W.

MAY, 1823.]

*Chesapeake and Ohio Canal.*

H. OF R.

I voted for the same proposition which is embraced in the amendment of the Senate, when the bill making appropriations was before this House, and I voted for the Senate's amendment. I am responsible for that vote to my constituents. I had not then an opportunity of explaining the reasons which influenced that vote, although the obligations to do so were increased by the remarks of two of my colleagues, who addressed the House, and seemed to treat the subject as one peculiarly affecting the interest of Kentucky, and thereby placed me in the attitude of hostility to the interests of my State. It is my purpose now to give the reasons which influenced my vote, and they connect themselves intimately with the subject under consideration.

When I gave my support to the Senate's amendment, I was under the impression that we had at that time extended our system of surveying and reconnoitring nearly far enough, and I voted to limit the appropriation of 80,000 dollars, with a view to the completion of such objects as had already been commenced. I did it from an examination of the number and extent of those objects; I did it with a view to our ability to accomplish them, or such of them as were of national importance. But, in supporting measures of this description, I must draw the line of distinction between objects which are strictly of a national character, connected with the general interests of the whole country, and such as are of mere private, local, and neighborhood consequence.

With these explanatory remarks, I will now pass to the main subject before us. And, in the outset, I will take the liberty to say, that, if the friends of the system of Internal Improvements do not wish to see that system utterly broken down, they must consent to have specific appropriations made for specific surveys. Sir, on this subject I may refer the friends of Republican Institutions to the sentiments of our great Apostle of Liberty and Democracy, (Mr. JEFFERSON,) that man who was the first to establish, in this Government, a system of strict national economy and accountability. The first occasion in which he addressed Congress, he admonished us against the consequences of leaving the expenditure of the public resources to the wild and lawless discretion of any administration whatever. Permit me to read from that message a single paragraph:

"In our care, too, of the public contributions entrusted to our direction, it would be prudent to multiply barriers against their dissipation, by appropriating specific sums to every specific purpose, susceptible of definition; by disallowing all appropriations varying from the appropriation in object, or transcending it in amount; by reducing the undefined field of contingencies, and thereby circumscribing discretionary powers over money; and by bringing back to a single department, all accountabilities for money, where the examination may be prompt, efficacious, and uniform."

With this cardinal principle for my guide, I do avow myself the advocate of specific appropriations for all our works of Internal Improvements. And, in pursuance of this general principle, I felt myself called upon to look into what had been the application of a fund placed by our indiscretion at the discretion of the President of the United States.

Having been called to look somewhat particularly into the application of this fund, I confess to you, sir, that the more I examined the subject, the more I became convinced of the necessity of making the appropriations for these surveys specific. My duty, as a member of the Committee of this House, has compelled me to examine, with some care and scrutiny, the expenditures of the various contingent funds, placed under Executive discretion.

That examination has strengthened the conviction I had formed, that it was unwise, if not dangerous, to trust too much to Executive discretion, in the expenditure of public money. It is a discretion liable to abuse, under any and every administration, and none more so than at present.

Under color of the law of 1824, we have expended no less than \$110,000 on the surveys of roads and canals. The whole of this sum has been disbursed at the discretion of the President, or of the War Department. Besides these \$110,000, expended under that law, we have expended \$48,000 under various acts of Congress, making specific appropriations for reconnoissances and surveys, forming an aggregate of \$158,000, about \$148,000 of which has been expended by this Administration within the last three years. If this was the whole expense we might content ourselves, under the hope that the labor and advantage to the country bore some proportion to the amount expended. To this must be added the increased and increasing expenditures of a growing corps of engineers, and, worse than all, a little army of civil agents, blood-suckers, hangers-on, and dependants, who feed from the public crib, and whose pay and emoluments, and very existence, depend upon Executive discretion and official will—"Non-resistance and passive obedience."

This latter corps amount to about forty, now in the pay of the Government. I refer gentlemen to what is called the Blue Book, some of them with a compensation equal to three hundred dollars per month, fixed by the unrestrained will of the Executive.

These gentlemen, united with the officers of the Army who are engaged in surveying, &c., form a formidable phalanx in the field. The whole expense of this corps, for the last three years, has not been much less than \$200,000. We have, it is true, sir, seen some of the fruits of this expenditure, in reports, maps, and charts, the printing and engraving of which has cost us, for the last three years, near \$30,000. I do not pretend to say these officers have been idle. No, sir; far from it. They have



been kept busily employed, it would seem, from the multiplied number of the national objects that have attracted the attention of the Administration.

I hold in my hand, and have read, a list of the various objects on which they have been employed. Sixty-nine objects were reported to us last session, as having been examined since 1824. Since the last session a large addition has been made to the list. The whole number now is ninety-one, of which I understand thirty-seven only have been completed; for which we have estimates of the expense of carrying them into execution. And the aggregate of these estimates amount to 82,858,000 dollars. Now, sir, if the balance of these ninety-one objects will cost at all in proportion to these thirty-seven, the whole number cannot be completed under \$70,000,000 or \$100,000,000. Such being the fact, I put it to the House to say, whether it is not the course dictated by prudence, to apply the surplus revenue of the country to the commencement and completion of some of those ninety-one objects, which have been already commenced, rather than to go on and survey new objects? and whether the surveys hereafter ought not to be confined to objects of a strictly national character, rather than be farther extended to merely local and neighborhood objects? If I am not mistaken in my estimate—and I have made it with some care—we have already surveyed or reconnoitred three thousand and fifteen miles of road—all of which remains yet to be made. I find in this list the following roads:

From Washington to New Orleans,	-	1,100	miles
" Baltimore to Philadelphia,	-	90	"
" Washington to Buffalo,	-	250	"
" Black Swamp, Cadiz, Wheeling, &c.	-	150	"
" Miami Rapids to Detroit,	-	70	"
" Cumberland Road, from Zanesville to St. Louis,	-	625	"
" Zanesville, (Ohio,) through Maysville, Lexington, (Ky.,) to Florence, (Alabama,)	-	600	"
" Cumberland, (Md.,) to the District of Columbia,	-	150	"
		3,015	"

The surveys of these roads have all been commenced. They remain yet to be completed. It will require the \$30,000 to do this. And yet it is desired by some that the Administration shall still seek for new routes and new roads to be surveyed.

Sir, this latter road from Cumberland, in Maryland, to the District of Columbia, is, to my mind, a striking instance of the abuse of this power under the law of 1824. What is called the Cumberland road, commences at Cumberland, in Maryland. On the present route we have, with the exception of about twenty-five miles, an excellent turnpike road. The whole distance is about 130 or 140 miles. It is proposed to make another road, on the Virginia side of the Potomac, by which you

may save ten or fifteen miles in the distance of 140 miles. If this canal is completed, no man would think of making this new Cumberland road. Certain I am Congress would not undertake it; for this road, so much needed, of such national importance, there have been no less than six different routes surveyed—around, about, through Leesburgh, and Winchester, Virginia. Sir, can any man believe that it was ever contemplated to do more than survey it? We are asked to commence a turnpike road of 120 miles in length, to save a distance of about fifteen miles.

Mr. Speaker, is it not time for Congress to say to the Department of War, finish some of the routes you have commenced surveying, before you ask us for money to commence new ones? If they have done these things "in the green tree, what may we not expect in the dry?" Look, sir, at this enormous list. [Here Mr. W. referred to the list from the Department, of various roads reconnoitred and surveyed.] I have said, and I do still say, it is time for us to finish some of these projects before we embark in new ones.

I have turned my attention to the States and sections of the Union where surveys are contemplated to be carried on during the next Summer. New Hampshire, New York, Ohio, Kentucky, and Indiana, form the principal theatre of their operations. Where there is a probability of the greatest political strife, it seems always prudent to have these surveyors engaged. Among the list, I see that Barren and Licking Rivers, in Kentucky, are to be surveyed, as national works of internal improvement. Notwithstanding this I was disposed to say to the department, finish first the road through Kentucky, which you have begun; it is of more importance to us than a survey of those two small streams, which have scarcely attracted the attention of the Legislature of the State, further than to declare them navigable, and regulate the height of the mill dams across them. Sir, I will not now say what I might be disposed to do on a fit occasion, with respect to the survey of these rivers, as national works; but allow me to say, there is, in my State, a river called Salt River, which runs through my district, and that of my colleague, (Mr. Moore,) and is, perhaps, not altogether unknown, at least by name, by many gentlemen here. If I had asked a survey of that, it is very possible I might have been "rowed up" it, instead of having it surveyed.

I am ready to admit that many of the objects in this list may possess meritorious claims, and be strictly national in their character; but I will also say, that there are some upon that list, for which I would never vote an appropriation, not even if the Treasury were full to overflowing, and the national debt paid. I ask whether a canal from the Potomac to the Rappahannock is to be denominated a national object of improvement? Did it ever enter the mind, even of the Virginia Legislature, to make

May, 1823.]

*Chesapeake and Ohio Canal.*

[H. OF R.]

this canal, of seven or eight miles in length? I appeal to the gentlemen from Virginia, whose State has expended more money upon internal improvements, in proportion to the advantages derived, than any State in this Union, in consequence of pursuing the very policy which the United States are engaged in. She commenced too many works at the same time. Like her, sir, we have "too many irons in the fire." Yet, sir, we find this route surveyed, as a national work, at public expense, and that, too, just previous to a contested election for a seat on this floor. The inevitable consequence of such a course must be, to excite hopes to be disappointed, waste the public funds upon useless experiments, and bring the whole system into disrepute.

I forbear, at this time, further comments upon many of the objects contained in this schedule, lest I might, inadvertently, do injury. If gentlemen will turn to the estimates of the department, for the public works heretofore undertaken by the Government, and compare them with the bills rendered and paid by the United States, I believe they will find the former, in all cases, to exceed the latter. The estimate for carrying this canal (the Chesapeake and Ohio) across the mountains, was, if I mistake not, \$23,000,000. But, before we see one step taken by the Government towards its commencement, we have four or five different routes surveyed, or reconnoitred, and examined, to connect this canal, which exists only on paper, with Lake Erie. Sir, I should have thought it time enough for those surveys when the canal was finished, or in some likelihood of being soon completed. But there are six or seven different routes surveyed for connecting a canal, not made, with Lake Erie. Sir, if we could once see the canal boats crossing the Alleghany mountains, we could better judge of the expediency of forming the connection with Lake Erie. If the Ohio Canal and the Grand Canal of New York, are found not sufficient channels for inter-communication with the Lakes, I might be disposed to aid by an appropriation of money an examination of the project for throwing an arm of this canal across into Lake Erie.

It will be recollected that, in the Spring of 1826, Congress subscribed \$100,000 to the stock of a company in Kentucky, who were making a canal at the Falls of the Ohio. This Canal is a work of national importance. It is intended to remove the difficulty in the navigation of a river which forms a boundary of nine States in this Union; the only outlet to a market for the rich and various productions of that fertile region.

It will be found to be money well expended, and in dividends paying the interest on the stock invested. This work has been of deep concern and great solicitude to the States of Pennsylvania, Virginia, Ohio, Kentucky, and Indiana. Great expense has been incurred, and labor spent, in order to ascertain on which

side of this river the canal should be located. Both banks had been surveyed, and the costs estimated by men, in whose judgment as much confidence should be placed as by any officer in your corps of engineers. It was ascertained to be practicable to make a canal on either side; but that on the Kentucky shore was believed to be the least expensive. No further surveying on either side was necessary. Such was the interminable disposition of the department to surveying, that, although there could not be an engineer spared to survey or examine the road through Kentucky, in 1826 one or more could be found to reconnoitre the falls of Ohio, on the Indiana shore. I ask, for what purpose? Did Indiana desire further information? Do the United States design to open an opposition canal around the Falls? Will any person say that capital and labor would be profitably employed, if vested in two canals around this obstruction?

At whose instance was this survey around the Falls made? I am induced to believe it was not done at the suggestion of the worthy representative of that district, whose vigilance to the interests of his State and constituents all will acknowledge.

Mr. Speaker: Entertaining the opinions which I do upon the subject of Internal Improvements, I have witnessed with deep solicitude, the course this Administration have pursued to execute the trust reposed in them by the act of 1824. I have believed that the practical operation of the system, to the unlimited extent to which its own zealous advocates wish to carry it, will do more to defeat the whole plan, than all the constitutional arguments which have ever been urged against it on this floor.

If it is designed to pass the boundary which divides national from mere local measures, and apply the revenues of the United States to the purposes of improving our rivers, creeks, and roads, it would be a much safer plan to distribute the money equally among the several States, and let the State Legislatures expend it upon such objects as their judgment may approve.

Mr. MERCE made a brief reply, in which he implored the friends of internal improvement not to enter into a general discussion of the subject of surveys, but to confine themselves to the subject immediately before the House, and come to a speedy decision as to the fate of the present bill. He had hoped not to be obliged to enter into debate on the question, but had anticipated answering any inquiries which might be addressed to him on the subject.

Mr. HOFFMAN then put a variety of queries to Mr. MERCE, as Chairman of the Committee on Roads and Canals, calculated to elicit a statement of facts in relation to the probable expenditure of the canal—the time of its completion—the resources of the Company—and the benefit likely to result to the General Government from the proposed subscription—and, also, what benefit the United States had de-

rived from the subscriptions it had heretofore made to similar companies?

Mr. MERCER replied, at some length, to the several points of this inquiry. Supposing the present bill to succeed, the company would then have subscribed to its stock \$3,600,000. The canal was divided into three sections—the eastern, middle, and western. The eastern section was 186 miles in length; the middle 85, and western section 121, making the total length of the canal 342 miles. If the canal should be made of the same dimensions with the Grand Canal of New York, the total cost of the eastern section would be \$3,600,000; or, with the allowances for the usual contingencies, about \$4,000,000. If it was made forty-eight feet wide, its cost would be increased by about \$200,000, and if, as was most desirable, and upon the whole, most economical, it should be made sixty feet in width, and five feet deep, its cost would be about \$4,500,000. He then stated the subscriptions of stock by the several corporations of Washington, Georgetown, and Alexandria, amounting in all to one million and a half. He stated the undoubted ability of these Corporations to comply with their engagements, and besides, that ability would be vastly increased by the very effect of the enterprise, in reducing the price of one of the prime necessities of life, the article of fuel, in such a manner as to produce a net saving of one hundred and twelve thousand dollars in the annual consumption of that article. Coal of the very best quality could be furnished in this city, so soon as the first section of the canal should be completed, at 12½ cents per bushel. He then adverted to the provisional subscription on the part of the State of Maryland, of half a million of dollars, to take effect when \$2,500,000 should be subscribed from other sources. He then proceeded to make a few remarks with regard to the number and amount of private subscriptions, the highly respectable character of the subscribers generally, and their ability to pay the sums which they had subscribed. When the canal had reached Cumberland, it would prove itself to be a very profitable enterprise, and there would be no difficulty in obtaining further funds, either in this country, or in Europe. Its total cost from Georgetown to Pittsburgh, would probably amount to about ten millions. The stock of the English canals was profitable in a high degree; that of one of them having advanced from £100 to £4,000 per share. The greater portion of these profits were derived from the carrying of fuel. As to the benefits to be derived from the canal, the profits of the stock would be shared by the Government in proportion to its subscription, while the benefits of a commercial and a political kind would ultimately reach every part of the Union.

Mr. M. adverted to the subject of railroads, which had been set up by some gentleman as a rival to the cause of the present canal, and a reason for their opposition to it. He professed

the most sincere desire for their success, allowed them to be superior to canals, where light and swift transportation was required, but insisted on the vast superiority of canals, in point of cheapness, for the conveyance of heavy commodities. Under the present form of this bill, the constitutional question could not legitimately come up, and he hoped no attempt would be made to discuss it. He adverted to the proprietary right of the Government in 8,350 lots within this city; that being the case, the Government and people ought to unite in forwarding a measure which promised very greatly to augment the value of real estate in the District.

Mr. HAMILTON, after adverting to the remarks which had been made by Mr. MERCER, as to the undoubted solvency and ability of all who had subscribed to the stock of the company, presumed he could have no objections to having the bill slightly amended by the insertion of the following proviso, which he offered to guard against the United States being reduced to the very awkward situation of finding itself left the sole proprietor of a work not half completed:

“*Provided*, That no part of the saidsum shall be paid by the United States, until the other subscribers to the stock shall have paid up the amount of their respective subscriptions.”

Mr. MERCER objected to this amendment, the practical effect of which would be to destroy the bill. What it proposed was, that the United States should pay its subscription, not *pari passu* with the other stockholders, but after all the rest had paid. If, then, it should happen that some one individual who had subscribed to the stock should die, and no administration be had upon his estate, the whole subscription of the United States would be tied up; the same would take place in the case of widows and orphans, besides which, some cases would, in all probability, occur of derelict stock, owned by foreigners dying abroad, whose heirs were unknown. In reply to Mr. HAMILTON, as to the vast amount which the canal had been estimated to cost, Mr. MERCER stated, that the reduction which had been made in the estimate of the United States Engineers, had been made, not by him, nor by the Committee on Roads and Canals, but principally by two of the most distinguished Engineers in the United States, Messrs. Geddes & Roberts, than whom none could be more competent to the task. They had both passed over the whole of the proposed line of the canal, and were well acquainted with the ground. Mr. Roberts had enjoyed great experience in the canals of New York, Ohio, and Pennsylvania, and Mr. Geddes, who had struck the first staff into the earth, in laying out the great Western Canal of the State of New York, had been conversant with all the details of his profession, and had grown gray in the practice of it. There was no mystery in the subject of these estimates. The excavation of earth, embankments, and the

MAY, 1828.]

*Chesapeake and Ohio Canal.*

[H. OF R.]

erection of stone work, were matters of plain, practical calculation. The estimates made by the Military Engineers, were such as might be expected from them. A scientific chief, who had reaped glory by following the conqueror of Europe from one end of the continent to the other, was not likely to be so accurately acquainted with the prices of labor in this country, as a practical native, who had grown up in it, and had long conducted operations of a similar kind among American farmers and mechanics. He adverted to several items in the estimates of the Engineers, which were manifestly extravagant. One of them consisted of \$2,700,000 for stone walls; every perch of which was estimated at \$8; while Mr. M. had ascertained, from an examination of the expenses of fifteen different canals, that a wall of that description had never cost more than one dollar. This was sufficient to show that their estimates of \$23,000,000 were not at all to be relied upon.

Mr. MARTIN offered an amendment, which he believed would be acceptable both to the gentleman from Virginia (Mr. MERCKE) and to his colleague, (Mr. HAMILTON.) The amendment is as follows:

"Nor shall any greater sum be paid on the shares so subscribed for, than shall be proportionate to the assessments made on, and paid by, individual and corporate stockholders."

Mr. HAMILTON accepted the amendment.

Mr. MARTIN briefly explained, and supported his amendment, the effect of which would be, to require the United States to pay only in proportion as the other subscribers paid.

Mr. MERCKE said that, if that was the intention of the amendment, it was reached by the present provisions of the bill, and he quoted the following words from the first section:

"That the Secretary of the Treasury be, and he is hereby authorized and directed to subscribe, &c., and to pay for the same, at such times, and in such proportions as shall be required of the stockholders, generally, by the rules and regulations of the company, out of the dividends which may accrue to the United States upon their Bank Stock, in the Bank of the United States."

Messrs. MARTIN and HAMILTON insisted that the provision in the amendment was more explicit than that in the bill.

Mr. CAMBRELENG observed that the distinction was broad and important, as the bill provided that the United States should pay no more than what was required from other stockholders; but the amendment said that the United States were to pay no more than in proportion to what was actually paid by other subscribers.

Mr. MERCKE replied, that, if such a provision was insisted upon in any joint stock company, it would not exist a single year. He, therefore, considered the amendment as going to destroy the bill.

Mr. HOFFMAN supported the amendment. It

was only intended to guard the interests of the United States against the effect of specious lists of subscribers, respectable in appearance, but insolvent in fact.

Mr. STANBERRY remarking that the object of this bill was of high importance to the people of many parts of the country, and to none more than to the State of which he was a Representative, to put an end to debate which might, in the end, defeat the bill, required the previous question, and his call was sustained—ayes 64, noes 56.

[The vote was afterwards reconsidered.]

Mr. MARTIN, disclaiming all intention, by his motion for an amendment, to defeat the bill in any indirect manner, and explaining what he now understood to be the effect of his former amendment, moved to amend the bill as follows:

Insert, at the end of the first proviso—

"Nor shall any greater sum be paid on the shares so subscribed for, than shall be proportioned to assessments made on individual or corporate stockholders—nor until one-half of the aggregate amount of such assessments shall have been paid."

Mr. HAYNES moved to amend the amendment, by restoring it to the form in which it was first offered by the gentleman from South Carolina, preferring it in that form.

Mr. MARTIN opposed this motion, on the ground that its practical effect would be, entirely to defeat the bill; for, although the Government should have subscribed a million of dollars, and be bound to advance \$200,000 every year, yet, according to this amendment, if a single stockholder should fail in paying a single dollar of his subscription, the Government would be free from its engagement.

Mr. STEWART stated, that subscription books had been opened through all the country, and there were in his district more than one hundred shares subscribed to the stock, many of the subscribers taking but a single share. They were scattered about in various directions, and if by any accident it should happen that any one of these persons held back his subscription, not a cent could be received from the United States in the meanwhile. He earnestly hoped an amendment like that would never be sanctioned by the House.

Mr. GILMER suggested to his colleague, that this difficulty would be obviated by striking out the word "or," and inserting the word "and;" which was accepted by Mr. HAYNES as a modification of his amendment.

Mr. G. briefly explained the effect of this alteration; which would be to bind the United States to pay up its subscription only in the same proportion as the aggregate amount subscribed, as well by corporations as individuals, should be paid in.

Mr. KREMER approved of neither of the amendments. If this object was of sufficient importance to induce the Government to subscribe for it, the United States should come in as a subscriber, on precisely the same footing in every respect, as all other subscribers. If the

amendment were adopted, and the Government should in effect say, that they would only pay as much in proportion as Washington, Georgetown, and Alexandria, had paid, who could be got to take upon him the office of Collector? If one subscriber refused to pay the quota required until he was satisfied that all other subscribers had done the same, how could the Company ever get on? He was for extending precisely the same benefit to this Company, which the Government had extended when it subscribed to the Delaware and Chesapeake Canal. Its subscription in that case was trammelled with no such conditions, and why should it be trammelled now? If there was any feature which ought to make a Government of Republicans, it was the observance of equal justice.

Mr. CARTER was satisfied that the bill required amendment. It must be evident to all, that a mere requisition to pay is not the same thing as payment, and as the bill now stood, the United States might be called on to pay, notwithstanding the insolvency of all her associates. Mr. C. concluded by expressing his preference of the amendment offered by Mr. MARTIN.

Mr. P. P. BARBOUR now proposed the form of an amendment, which went to require that the United States shall pay *pari passu* with the States and Corporations subscribing for the Stock, but not with individuals.

Mr. MERCER expressed his preference of the amendment offered by Mr. MARTIN. He approved of it, however, only because he must. He found himself in a state of duress, and that, unless he yielded to a certain extent, he could not hold even his friends. He believed the amendment would be productive of no practical injury, as it was impossible that the States and corporations, who had subscribed to the stock, would fail to comply with their engagements.

Mr. HAYNES defended the amendment he had offered, suggesting that it was the same which had been inserted in the bill to aid the Louisville Canal Company. If the corporations should fail to pay up their subscriptions, the Government would be left with the whole project upon their hands; and when the Company should once have got its hands into the Treasury, a powerful appeal would be made to Congress not to abandon what it had begun.

Mr. MERCER replied, that the bill, in this respect, was a literal copy of that authorizing a subscription of stock in the Delaware and Chesapeake Canal Company.

Mr. SERGEANT expressed himself willing to acquiesce in the amendment, though he thought there was much force in the observations of his colleague, (Mr. KREMER.) The United States ought, if it were practicable, to be put on the same footing with every other subscriber; but as each subscriber had a sovereign right with respect to the paying or withholding of his own subscription, there seemed a necessity for some guard, lest the Government should be compelled

to go on with its payments after all prospects had ceased of a successful prosecution of this work. He reminded Mr. K. that the present course was the same as had been pursued by Pennsylvania in the case of the Union Canal.

Mr. WRIGHT, of New York, inquired what provision was contained in the charter, in case the subscribers should not pay up their stock.

Mr. MERCER, in reply, read the fifth section of the charter.

Mr. GILMER now explained the effect of the amendment offered by Mr. HAYNES, as going to guard against any great failure on the part of any of the other parties subscribing. He believed, for his own part, that neither of the Corporations of Washington, Georgetown, or Alexandria, was vested with the power to subscribe into such a company. Not a dollar could be collected from either of them: for who was then to issue the *quo warranto* to dissolve the corporation?

Mr. SMYTH, of Virginia, opposed the amendment. He was against subscribing at all, unless the work was to be gone on with, and if the Government did subscribe, it ought to enjoy the same privileges as other subscribers, and no more. According to the amendment, the United States might withhold their payment until the Corporations and individuals had paid in theirs; but, if this right existed at all, it was a mutual right, and others might as well wait for the Government. Congress ought not to touch the matter, unless it meant to go on with the work whether others did or no. Supposing Alexandria should fail to pay up its subscription, and, in consequence of that, the Government should also withhold its subscription—would not the Government stock be liable to be sold under the charter? He thought the United States ought to pay up its own subscription faithfully, and sell the stock of all defaulters.

The question was now taken on the amendment of Mr. HAYNES, and negatived; the amendment of Mr. MARTIN was carried.

Mr. MERCER replied to an inquiry of Mr. HOFFMAN, in relation to the profit which the United States had derived from its subscription in other companies. No dividends had yet been received, because the works to which she subscribed were not yet complete.

Mr. HOFFMAN then went into an extended speech in opposition to the whole measure, which he considered as a stock-jobbing scheme, the least participation in which was degrading to the Government. If the United States did possess the constitutional power to carry on works of Internal Improvement, (which he denied,) let her take this work into her own hands, and do it in a manner worthy of herself.

Mr. BARNEY moved the previous question; which was sustained—ayes 70, noes 50.

The Speaker put the previous question: "Shall the main question now be put?"

On which, the yeas and nays stood—yeas 115, nays 64.

MAR, 1828.]

*Chesapeake and Ohio Canal.*

[H. OF R.]

The main question was put: "Shall this bill, as amended, be engrossed for a third reading?"

Which question was decided by yeas 117, nays 73.

So the House, by a majority of forty-four votes, ordered the bill to a third reading.

FRIDAY, May 9.

*Chesapeake and Ohio Canal.*

The bill authorizing a subscription, on the part of the United States, in the Chesapeake and Ohio Canal, having been read a third time, and the question being, "Shall it pass?"

Mr. WHITTLESEY said: The gentleman was pleased in his examination of the report of the Secretary of War, detailing the different routes surveyed under the act of April 30th, 1824, to notice the routes surveyed in the northern part of the State of Ohio, to connect the waters of the Lake with those of the Ohio, by means of a canal; and he seemed to think that these surveys were useless, inasmuch as the Eastern section of the canal was not completed, and that they were made from political considerations. The blame of carrying into effect the law of 1824, in this instance, is, as usual, laid at the door of the present Administration; but, if the gentleman is as unfortunate in his other statements as he is in those relating to these surveys, I should hope he would retract the charges he has made.

The extension of the Ohio and Chesapeake Canal to the Lakes is necessary, before that great work can be said to be completed, or before it can be said to be eminently useful. This is necessary to open a water communication to the lands owned by the United States, on Lake Erie and the Upper Lakes, with the Metropolis of the nation. The extension of the canal to Lake Erie was contemplated by the eminent person (General WASHINGTON) who first suggested the practicability of connecting the Eastern and Western waters, by a canal. That idea has never been abandoned by those who have cherished a belief that any part of this canal would be constructed. Soon after the passage of the act of 1824, an application was made to Mr. Calhoun, then Secretary of War, for a reconnoissance of the country from the Ohio River to Lake Erie, and he gave the order for this examination, and detailed for the service General Bernard and other scientific gentlemen. This corps traversed the country, and made a favorable report, which may be found among the printed documents. It was understood, at the time, that Mr. Calhoun left this city for the purpose of accompanying the Engineers to the Lake, but was prevented by the sickness of his family. The report of the Engineers being favorable, an order was afterwards given to have a route surveyed from the Ohio River to Lake Erie, at Ashtabula. It was ascertained that a sufficient quantity of water could not be obtained for this route without bringing to the summit level the water of

French Creek; and a reconnoissance was made, for the purpose of ascertaining the practicability of using that stream as a feeder. The result was favorable; but as the Engineers had been directed to examine a route in Western Pennsylvania, and, as the State of Pennsylvania had undertaken a system of Internal Improvement, and would necessarily use this water in some of her works, that route was not further surveyed. When the Convention sat in this city, in December, 1825, a proposition was submitted to that body, to have a survey made from a line run by Col. Kearney, in the State of Pennsylvania, to the Ohio Canal, for the purpose of ascertaining the practicability of uniting, by this cross cut, the Ohio Canal with the Chesapeake and Ohio Canal, if it should terminate in Pennsylvania; or for the purpose of ascertaining whether it was not the most favorable route for the extension of the main canal. The subject was debated on two several days, and was well understood, and the Convention recommended the proposition to the favorable consideration of the President, under the provision of the act mentioned. The Convention also passed a resolution, declaring distinctly that its members did contemplate an extension of the Chesapeake and Ohio Canal to Lake Erie, or to some water communication connecting with it. There is not any canal of the same length, of greater national importance. It will open, in connection with the Chesapeake and Ohio Canal, or with the Pennsylvania Canal, whichever may be constructed, a direct communication with the extensive country bordering on those great inland waters. On it will be conveyed the produce destined for a market south of New York, which may be brought up the Ohio Canal. So important has it been considered by the States of Pennsylvania and Ohio, that they have concurred in incorporating a company, for the purpose of constructing it; and this company will, in due time, apply to Congress for aid and assistance in completing the work.

The gentleman has also seen proper to find fault with the surveys made for harbors at Ashtabula, and at Cunningham's Creek, and supposes that these, with the other surveys, were made to accommodate neighborhoods.

The gentleman must have been unacquainted with the importance of the commerce on that Lake, and with the danger to which it is exposed, or, I am sure, he would not have seized on these surveys as a ground for criminating those who administer the Government. Sir, there is not a natural harbor on the whole of that coast, from Buffalo to Sandusky—a distance of more than two hundred and fifty miles. The sudden storms of winds are violent, and greatly endanger both the commerce and the lives of those employed in carrying it on. The construction or improvement of harbors there, is as much in aid of commerce, so far as principle is involved, as similar works are on the seashore. The value of that commerce now, in

importations, by which I mean (said Mr. W.) all goods shipped at Buffalo, amounts to not less than five millions annually, and is rapidly increasing. I have, said he, sufficient evidence in my possession to prove this assertion. The amount of exports is very great.

Mr. GILMER said, that in opposing the final passage of the bill under consideration, he should avoid discussing any objection which arose out of the provisions of the constitution. He should feel that his time and efforts were worse than wasted, in endeavoring to resist the violation of that great fundamental law of our Union. He observed, that there had been too many proofs during the present session, that the combinations of party intrigue, and the union of selfish interests, operated much more powerfully in determining all questions depending upon legislative authority, than regard for the essential powers of the Government, to justify him, at this late period of the session, in saying any thing upon that subject. He should, therefore, in the few remarks which he should make, consider only the question of the expediency of this Government becoming a joint undertaker with the Corporations of this District, and a few individuals in making the proposed Chesapeake and Ohio Canal. And this question he considered one of the most important that had agitated the United States. That, in truth, it was the great question, whether any form of Government could secure to the great body of the people, the certain enjoyment of a due share of the profits of their labor.

We have boasted (and who had not felt pride in the truth of the boast) that ours was the only Government which protected alike the interest of the rich and the poor, and where all were equally entitled to every privilege. In fact, that privileges were unknown to our free country. That here the true object of Government had alone been attained, in securing, by its peculiar organization, the rights of those who were unable, by ignorance, poverty, or weakness, to protect themselves from the ambition or grasping cupidity of those, in whose hands power usually centered. He remarked, that, upon this subject alone, he had been an enthusiast. He had felt more zeal for the country's service, because the poorest man in it was as secure in the enjoyment of his property as the most wealthy, than in any display of national power and authority. He had believed, that the great and patriotic men to whom we were indebted for our political institutions, had succeeded in effecting what others had struggled for in vain. He asked if his enthusiasm in these opinions of his had been the result of an over-heated imagination. He observed, that the policy which the Federal Administration had pursued for the last few years satisfied him that it was extremely difficult, if not impossible for any Government so to be framed that its conduct would not be directed by, and for the advantage of, the active and influential members of society. The struggle

by the body of the people to protect themselves from the cupidity of the select classes, had commenced with the origin of Government; and that wealth, intelligence, and the force which the few were always able to combine, had invariably overcome in that struggle. That a struggle of very nearly the same kind had formerly excited all the energies of our people; but that, since the signal victory then obtained by popular rights, the funding and banking systems, the war, and the erection of numerous corporations, with large capitals, for manufacturing and other purposes, had organized new and powerful interests, which had years ago commenced, and were now carrying on a more successful attack upon the great rights of the community.

Mr. G. observed, that he had no doubt that every member of the House understood the nature of the increased force which wealth and intelligence derived from the smallness of the numbers of those, who, in every country, wielded those great levers of society. And he hoped that they would, without difficulty, understand the reasons upon which he had attempted to show the expediency of confining the authority of the State and Federal Governments within the limits already stated. But, (Mr. G. observed,) if any proofs were wanting of the truth of the distinctions which he had made, he supposed they might be found in the history of the policy pursued by the Federal Government, of late years. He would take a familiar example, which, he thought, could be found in the West Point Academy. That institution owed its origin to the collection of a few of the officers of the Army, for the purpose of improvement in the scientific part of their profession, at West Point, by order of the Government. At the commencement of the late war, the numbers were enlarged to two hundred and fifty, and, by construction, to two hundred and sixty-two. After the war was ended, when it was determined to make the national defence depend chiefly upon the Navy, when the Army had been reduced to six thousand men, and there was every probability of a long-continued peace, repeated efforts were made to reduce the number of Cadets at West Point. These efforts had failed, because the members of Congress, and their friends, through them, were enabled, by the means of that institution, to procure the education of their children at the public expense, and to prepare them for avocations of life wholly unconnected with the military service.

Mr. G. then observed, that every one united in feelings of gratitude to those by whom our revolution was effected; but that the advantages secured by that revolution were very differently estimated by different portions of the community. One party appeared to consider the establishment of a great and splendid National Government, well-equipped armies, numerous fleets, grand canals, highly ornamented public buildings, and the encouragement of the

May, 1828.]

*Chesapeake and Ohio Canal.*

[H. OF R.]

fine arts, as the most desirable results of that great event; whilst the other would be fully satisfied by having individual happiness secured to every citizen, by protecting his rights to the enjoyment of the largest possible share of the profits of his labor. These two parties, he said, had existed in all free Governments. It was the strife between the Democracy and Aristocracy. And although we had no titled nobility, and were all *novi homines*, yet we had an aristocracy, not the less powerful because it is not artificial. He knew that it was said that our Government was Republican, and that we had a Democratic Administration; for his part, he thought a large portion of the members of the Administration were like the head of it, but pseudo-Democrats.

Mr. G. then proceeded to apply the general remarks he had made to the bill before the House; insisting that the proposed canal for connecting the waters of the Chesapeake and Ohio was too visionary in its conception, would be too expensive in its execution, and too profitless in its enjoyment, to have been undertaken by any Government properly regardful of the profits of the people's labor. He stated, that neither the State Governments, nor any association of private individuals, ever would have attempted to have made the Chesapeake and Ohio Canal. The fact, that the States of Virginia, Maryland, and Pennsylvania, and the Chesapeake and Ohio Canal Company, were its projectors, and, apparently, chiefly interested in its execution, Mr. G. stated, was no contradiction of what he had said. These States, he observed, expected to reap advantages, fully equal to their expenditures, and that the individuals of that company might expect to be amply rewarded for their advancements, out of the profits of the agencies and contracts which an expenditure of 23 millions would create, and that a considerable portion of the subscription of that company was in Potomac stock, known to be of little value. And he observed that both those States and that company would advance money only from the expectation that the largest portion of the expense would be borne by the Federal Government. He observed that the subscription for stock by the Corporations of Washington City, and Georgetown, and Alexandria, might be called a phenomenon in the history of stock-jobbing. Those corporations, created for the purpose of regulating the police of their towns, had, without authority, and contrary to the nature and design of their institutions, subscribed \$1,500,000 for stock. He observed, that these subscriptions he considered a lure to, or rather the cover under which the Government was to commence stock-jobbing itself, and was to be induced to advance so far, in expending its treasure upon the canal, as to be finally compelled to carry it on when all the other parties to the undertaking had become unable or unwilling to expend anything more upon it. He said that he had no doubt that those corporations would have subscribed \$100,000,000

for stock in the company, if they could not otherwise have induced the Government to become the responsible stockholders. What means, he asked, had the declining Corporations of Georgetown and Alexandria of paying their subscriptions, and what power had the corporation of Washington City to compel its citizens to pay such a subscription? He admitted that it was to have been expected that those corporations would use all the means they could control, to induce the Government to make the canal, and in what he had said in relation to them, he wished to be understood, not so much as censuring their conduct, as that of the Government in making their subscription any reason for its expenditure.

Mr. G. then admitted, that all his general remarks would be inapplicable to the immediate subject under consideration, provided it could be shown that there was a reasonable probability that the canal would yield the ordinary rate of profit. He observed, also, that by profit he did not mean the mere toll which could be collected for transported produce, but all the advantages which any portion of the people would derive from it. He asserted that profit was the only object which could justify such improvements.

Mr. G. then proceeded to examine the question, whether a reasonable profit was likely to be enjoyed by the people of the United States from what the Government should lay out in completing the Chesapeake and Ohio Canal. He stated, that the best means of determining such a question would be by ascertaining the cost of making the canal, the quantity of every material which it would transport, the difference between the advantages of that transportation and such as could otherwise have been attained, and the benefit of the new market which it would give to the productions of the country. As to the first point of inquiry, to wit, the cost of the canal, he stated that there had been much difference of opinion. The United States Engineers, employed specially for the purpose of determining that point, had estimated it at \$22,875,429 69 cents. He said that great efforts had been made by the special partisans of the canal, to lower that estimate. But, observed Mr. G., if that should be an over-rated estimate, it was the first that the Government has yet been furnished with by its Engineers. He stated his belief, that the expense would far exceed the calculation which he had mentioned, and that belief, he said, was founded upon the singularity of the attempt to make a canal over a very extensive range of mountains, and the impossibility of foreseeing all the obstructions which would be found to exist in the execution of such a work. And the House, he observed, would perceive the force of what he said, when it recollected the number of locks, bridges, culverts, &c., which were supposed to be necessary, and the fact that the expense of one tunnel of five miles' length, it was calculated, would cost \$3,500,000.



Mr. G. then proceeded to examine the second point he had made, to wit: the quantity of material which would be transported by the canal. He stated, that the largest portion of its route was either through a very sterile country, or an extensive range of uncultivated mountains. He admitted that one portion of it passed through a very different kind of country. He remarked that the valley between the Blue Ridge and the Alleghany Mountains was not surpassed in richness of soil, salubrity of climate, picturesque scenery, and the industrious habits of its people, by any part of the world. It was, indeed, he said, to him a most lovely and beloved land, endeared by a thousand of the most tender and happy recollections.

But the valley, Mr. G. observed, was too small in extent, to justify a very large expenditure for the purpose of lessening the price which its inhabitants had to pay for the carriage of their produce. He further observed, that many were of the opinion that the flour, hemp, and pork, of the Western country, would be transported by the canal. But he thought differently himself. He stated that no country, so inland, had so fine a natural communication with the ocean, as that upon the waters of the Mississippi. He stated also, that the canal from the Ohio to Lake Erie would soon be completed, and would furnish an easier (though not quite so short) communication with the Atlantic than the proposed canal. He asked whether it was to supply Virginia and Maryland with horses and hogs?

Mr. LEFFLER said that, when he came to the hall this morning, it was not his intention to have said any thing on the question now under consideration; but, from the course which the discussion had taken, representing as he did a district largely interested in this matter, he felt bound to say something, and that his remarks should be confined to some extent in reply to the objections urged against the passage of the bill, by the gentleman from Georgia, (Mr. GILMER.)

The gentleman from Georgia sets out by stating what might be called with some propriety a political axiom; he says that Governments are formed for the protection of the weak against the strong, and infers that the incorporation of this company will be oppressive, instead of a benefit to the people. Now, sir, I am at a loss to see the application or force of this argument; it seems to me to prove too much. If the incorporation of companies be oppressive, then this Government and the several State Legislatures have been in error from the first establishment of our institutions: for they have all, from the beginning, been in the continued practice of granting corporate powers. In fact, the argument, without going further, is fully met by the experience of the country: for great as the bugbears have been which have been held up to the public gaze, by some statesmen, in relation to corporations, yet I doubt whether the gentleman from Georgia, or any

gentleman, can show that they have been oppressive to the people; while I think it must be admitted that the incorporation of companies in the United States, has, in a variety of instances, been of great public utility. The only thing necessary to secure the rights of the citizen, is to have the law well grounded; and from the examination which I have given his bill, and all the laws relating to the Chesapeake and Ohio Canal, I am perfectly satisfied that this object is fully attained.

The next objection urged by the gentleman from Georgia is, that we are about to make a canal to a point where there is no market. I must confess I felt some surprise at hearing the honorable member thus express himself. For the talents of that gentleman I entertain a high opinion: and how he could arrive at this conclusion, is to me matter, not only of surprise, but great astonishment. Why, sir, I hazard nothing in saying that this point opens to a market equal to any in North America. It is about midway of your Atlantic coast, presenting all the advantages of the trade along your whole seaboard; and at once puts you afloist on the ocean, whence you may command the market of the world. This is the light in which I would regard this branch of the subject, not, as I suppose the gentleman meant, that we intended nothing more than to avail ourselves of the markets of Georgetown, this city, and Alexandria. No, sir, they will receive their portion of the benefits, but we have greater and higher objects in view; we wish, and if this bill passes, I hope we shall all see the day when the Chesapeake and Ohio Canal will be the great avenue from the west to the ocean, affording facilities to some millions of the people, by which they can avail themselves of any market they choose. But the gentleman from Georgia says, if the canal was made, but little produce will pass along it. If he were as well acquainted with the Western country as many gentlemen in this hall, he would have no difficulty in coming to a very different conclusion. He would readily see, that we not only wanted the means of getting to market, but that we had the products, in great abundance to supply a market. Yes, sir, the produce of the West is incalculable. Give us a market, and there is no limit to our resources. Every year we drive from west of the Alleghany Mountains, between eighty and one hundred thousand head of hogs. We send immense quantities of tobacco, whiskey, bacon, and many other articles, and the time has been, and may be again, when the country on the seaboard will have to depend on the upper and Western country for their iron and salt. Yes, sir, the iron and salt is found principally in, and west of, the Alleghany Mountains. In time of war, when these articles cannot be imported, the supply must, in some measure, come from the West. Without this canal, they must come enormously high, if got at all; because they are heavy articles and of difficult transportation. Besides these

MAY, 1828.]

*Chesapeake and Ohio Canal.*

[H. OF R.]

products, the people who will avail themselves of the benefits of this canal raise immense quantities of grain, of every kind. In fact, wheat is the staple article of a great portion of the Western country, and its culture can be enlarged to almost any quantity. To match the Eastern cities, as the Western people can, by this canal, with their flour, it must be evident to every gentleman, is a matter well deserving the favorable consideration of this House. Sir, as the people of the West are now situated, they have no market for this great staple of their country, except at the city of New Orleans—a market perhaps more fluctuating and precarious than any other that can be named; and from 1,500 to 2,000 miles distant from the wheat country, and that, too, in a climate where the elements seem to combine not only to injure the quality of our produce, but to destroy the lives of our citizens, hundreds of whom have fallen victims to its influence.

But, again: The gentleman from Georgia states, that this and the adjacent cities are surrounded by large forests; and that, while wood remains plenty, there will be no considerable coal trade on the canal. It is true, Mr. Speaker, there is considerable timber not far distant from these cities, yet wood costs, I am informed, from four to six dollars per cord—a price certainly not very low. Open this canal to the coal mines, and I cannot entertain a doubt, you will at once bring into existence an immense coal trade, by which this city, Georgetown, Alexandria, Norfolk, and other places, will be supplied with great quantities of that valuable article at twelve and a half cents per bushel. From these facts, therefore, I think I have shown that the gentleman from Georgia must be, in some measure, mistaken in his views on this subject.

But he goes further: He supposes that canals never succeed well, except in old populous countries; that the country through which this canal is to pass, contains too thin a population; and has gone into a detailed account of canals in Europe. Why, sir, the two countries are vastly different, both in locality and their articles of commerce. Neither England, Ireland, nor Scotland, export many of the heavy bulky articles. Their territory is small, and is entirely surrounded by navigable waters; their exports are generally of manufactured articles of great value, light, and of small bulk, and consequently of easy transportation. The case is very different here; our products, for the most part, are of the heavy, bulky kind, lie in the interior, and are far from navigation; and hence the greater necessity for canals. So far as regards the population, the gentleman is equally wide from the mark. Yes, sir, more than two millions of your citizens are now anxiously looking to this Congress for the passage of this bill, that the canal may be commenced. All Western Pennsylvania, all Western Virginia, Ohio, Kentucky, and Indiana, hold a large stock in

this enterprise. Independent of the vast population to be benefited between tide water and the mountains, in my humble judgment, it would puzzle the ingenuity of the gentleman from Georgia, either in the old or the new world, to point to the case that has equal claims even on the score of population; and I would say further, that, when so large a population make their appeal to Congress, it becomes a grave question, and should be met in that spirit, and not in the spirit of ridicule. The gentleman from Georgia urges, as another objection, that the city corporations and the individual stockholders will never pay up their subscriptions, and that the burden will eventually fall on the Government. This, again, in my humble judgment, is a delusion: for the bill itself contains an express guard against any such contingency. And besides, we have the strongest evidence of the ability and willingness of all to join heartily in the work.

Mr. Speaker: Having made these remarks in reply to some of the arguments urged against the passage of this bill, let us look at this question in another light; here is an improvement carrying with it, perhaps, more of national character than any that can be made in these United States; the very first great national improvement that attracted the attention of our ancestors, and which has been viewed and approved of since the foundation of the Government, as one of the great means of holding this Union together. Yes, sir, when that country west of the mountains was yet a wilderness, that great patriot and statesman, General Washington, in looking into futurity, foresaw that sectional feelings and sectional interests were to take root, and grow up in this land. To guard against their consequences was to his mind a matter of no small moment. He could readily see that this was the rock on which this fair fabric was the most likely to be dashed into pieces. He was, therefore, the first to recommend a union of the eastern and western waters, on the very line of the proposed canal. Is there nothing due to his judgment? Is his paternal address, on his retirement from office, not to be our inheritance, and are we not to look upon this as the favored moment to give greater strength to this vast Republic?

Mr. MITCHELL, of Tennessee, moved the previous question.

His demand was sustained by the House—ayes 90.

The previous question being then put and carried,

The main question was then put—"Shall this bill pass?" and decided by—

YEAH.—Messrs. Anderson of Penn., Armstrong, Bailey, Baldwin, John S. Barbour, Barlow, Bartlett, Bartley, Bates of Mass., Bates of Missouri, Beecher, Blair, Blake, Brent, Buckner, Butman, Chilton, Clark of Kentucky, Condict, Coulter, Creighton, Crockett, Crowninshield, Culpeper, Davenport of Ohio, Dickinson, Dorsey, Duncan, Everett, Findlay, Fort, Forward, Gale, Garnsey, Gurley, Holmes, Hunt, Inger-

soll, Isaacks, Johns, Lawrence, Lecompte, Leffler, Letcher, Little, Livingston, Lyon, Magee, Martindale, Marvin, Maxwell, McDuffie, McHatton, McKean, McLean, Mercer, Merwin, Metcalfe, Miner, Mitchell of Pennsylvania, Mitchell of Tennessee, Moore of Kentucky, Moore of Alabama, Newton, Orr, Owen, Pearce, Phelps, Pierson, Plant, Ramsey, Richardson, Russell, Sawyer, Sergeant, Shepperd, Sloane, Smith of Indiana, Sprigg, Stanberry, Stevenson of Penn., Sterigere, Stewart, Storrs, Strong, Swann, Taylor, Thompson of New Jersey, Tracy, Tucker of New Jersey, Vance, Van Horn, Varnum, Vinton, Wales, Ward, Washington, Weems, Whipple, Whittlessey, Wickliffe, Wilson of Pennsylvania, Wingate, Woodcock, Wolf, Wright of Ohio, Yancey—107.

NAYS.—Messrs. Adams, Alexander, Allen of Va., Alston, Anderson of Maine, Archer, Barber of Conn., Philip P. Barbour, Barringer, Bassett, Belden, Bell, Brown, Buchanan, Buck, Bunner, Cambreleng, Claiborne, Clark of New York, Conner, Davenport of Virginia, Davis of Mass., Davis of S. C., Desha, Drayton, Earll, Floyd of Georgia, Fry, Gilmer, Gorham, Green, Hallock, Hall, Hamilton, Harvey, Haynes, Healey, Hobbie, Hoffman, Johnson, Keese, King, Lea, Long, Lumpkin, Marable, Markell, Martin, McCoy, McIntire, McKee, Miller, Mitchell of S. C., O'Brien, Polk, Ripley, Roane, Smyth of Virginia, Stower, Swift, Sutherland, Taliaferro, Trezvant, Tucker of S. C., Turner, Verplanck, Wilde, Williams, John J. Wood, Silas Wood, Wright of New York—71.

So the bill was passed, and sent to the Senate.

SATURDAY, May 10.

*Electoral Votes for President.*

Mr. WILDE moved the following resolution :

*Resolved*, That a message be sent to the Senate of the United States, respectfully requesting that body to transmit to this House, if in their possession, copies of the several certificates and lists of all the votes given for President and Vice President, on the first Wednesday of December, 1824, or of so many thereof as were received, opened, and counted in this House, on the second Wednesday in February, 1825, when the persons who fill the offices of President and Vice President were ascertained and declared.

Mr. WILDE said, a word or two of explanation might be expected from him, and perhaps was necessary. He would be as brief as possible. At the last election of President, he had the honor to be a member of that House. While the certificates and lists of the votes were in the act of being read, it struck him that, in some of them, it did not appear the requisitions of the constitution had been complied with. The twelfth article, it would be borne in mind, provided that the election shall be by ballot, and the Electors shall name in their ballots the person voted for as President, and, on *distinct* ballots, the person voted for as Vice President. It had then appeared to him that the certificates from some of the States did not set forth, or, at least, did not explicitly set forth, a vote by *ballot* and by *distinct* ballots.

He did not mean to create a sensation here, or elsewhere. Nothing could be farther from his intention than to controvert the validity of that election. He rose not to lament over the past, nor to indulge gloomy forebodings for the future; but to state facts; to draw from events gone by, warning and security for the time to come. It was a grave question how far the vote of a State might be affected by a departure from the forms of voting prescribed by the constitution. It was also an interesting and delicate inquiry, worthy of much calm and serious thought, to whom the power and duty of determining the fact of such a departure belonged. Into these questions he did not now propose to enter. He would not profess that his mind was made up. He intended studiously to avoid indicating any opinion at this time. They were, he considered, of some magnitude and difficulty, and he felt them to be so at the period alluded to, when they had first occurred to him. He did not then venture to take upon himself the responsibility of causing them to be agitated; neither his confidence nor his experience in public affairs warranted him in presenting a suggestion, the ultimate consequences of which it was difficult to foresee. He communicated his impressions, however, to two gentlemen near him, one of them, then his colleague, now the Governor of Georgia; the other—a friend he hoped he might call him, for he had found him such—for whose talents and character he had the highest respect; a gentleman who had since been translated to the Senate, (Mr. MOLLANE.) The probable results of such a suggestion were considered during the very short interval during which deliberation was possible. It was imagined that, if the difficulty were presented, a protracted discussion would arise; public feeling might become highly excited, and all the evils of a contested election for Chief Magistrate be felt throughout the Union. His uncertainty was increased, in consequence of some of the certificates having been already read before they had attracted his notice. These could not be obtained for inspection. The bearing of such a question upon the election, therefore, was, in every respect, matter of doubtful conjecture. Under all the circumstances, his friends did not encourage him to introduce the subject. He would not say they advised him against it. Whatever responsibility attached to his silence on that occasion, belonged to himself. He did not seek to conceal or to divide it. He admitted that he hesitated, doubted, and, in the interval, the event of the election was announced.

Had the objections apparent on these certificates been then urged—supposing them to be well founded, and this House to be the constitutional judge of their sufficiency, and the validity of the votes, the issue of that election might have been different. He had not, in this instance, framed a theory, and then sought out facts to support it. He had collected facts, and if he was not mistaken, they were worthy of a

Mar, 1823.]

Electoral Votes for President.

[H. OF R.]

passing notice, and might lead to something practical. Since the commencement of the present session, he had examined these certificates with as much attention as his other duties would allow; and if the House should indulge him in calling for them, they would be believed to be found, although exhibiting almost every variety of form, to agree substantially with the abridged statement which he should present.

The return from Delaware did not certify that the Electors voted by ballot, but specified the vote of each Elector thus:

"A. B. votes for C. D. as President,  
E. F. votes for G. H. as President," &c.

fairly authorizing the inference, as he apprehended, that the vote was *viva voce*.

The return of New York specifies that the Electors voted by ballot, and named, in distinct ballots, the persons voted for as President and Vice President.

The return of Rhode Island agrees, in effect, with that of New York.

The return of Missouri did not, Mr. W. believed, certify that the Electors voted by ballot, or by distinct ballots.

That of Vermont, he conceived, did not exhibit a vote by ballot, and by distinct ballots.

That of Tennessee presented distinct ballots, and so also of Connecticut, New Hampshire, Maine, and Maryland.

The Electors of Mississippi seemed to have voted by ballot; but it did not appear that they gave distinct ballots for each office.

From the returns of Ohio, Pennsylvania, New Jersey, and Kentucky, enough appeared to warrant the inference that they voted by ballot, and by distinct ballots.

Illinois seemed to have voted by ballot, but not by distinct ballots.

The return of South Carolina does not state explicitly that the Electors voted by ballot, and by distinct ballots, but it shows a separate vote, and the ballots themselves are forwarded.

Indiana seems to have voted by ballot, but the return does not allege distinct ballotings.

The return of Alabama says, the Electors proceeded to vote pursuant to the law and constitution, but does not specify the mode of voting in direct terms, whether by distinct ballotings, or otherwise.

That of Massachusetts appears to be strictly correct and formal. It says, the Electors voted by ballot for President and Vice President, having named in distinct ballots the person voted for as President, and the person voted for as Vice President.

The return of Virginia did not specify that the Electors voted by ballot; separate returns were made of the votes for President and Vice President, but it did not appear in terms, that either vote was by ballot.

The return of Georgia was similar to that of Virginia, except that the Electors used the word ballot.

The Electors of North Carolina seemed to have voted by ballot; but did not aver that it was by distinct ballots, and perhaps the fairest inference from the language of the return was, that only one balloting was had.

The return of Louisiana was, in effect, like that of North Carolina.

Mr. W. did not wish to be understood as asserting, that the notes he had taken from these documents to assist his memory, were free from error, nor that the construction he put upon the language used in them was the correct one. The phraseology was so different as to admit of a great variety of interpretation. He protested, likewise that he did not intend to say, or to insinuate any thing against the mode in which the Electors had endeavored to discharge their duty. They had, doubtless, acted according to established usage in their respective States. Many, perhaps all of them, were much his superiors in sagacity and experience, and he was among the last who could be capable of treating them with any disrespect. He did not mean to intimate that the votes thus given were in fact invalid by the constitution, or that any tribunal had been created having power to declare them so. Upon that subject he forbore expressing an opinion. What he wished to say, was this: a great diversity among the certificates existed. Some of them were open to exception. When the constitution prescribed a particular mode of doing an act, he took it for granted that mode ought to be followed. If it was departed from, there might be room to impugn the act done: and the mere discussion of such a question, in particular cases, might disturb the public tranquillity, and lead to tumult and confusion.

If, upon the occasion referred to, the votes of those States which, as he supposed, were liable to exception, had, in fact, been objected to, and this House had undertaken to pronounce them null, the votes of Delaware, Mississippi, Vermont, Missouri, Virginia, North Carolina, Louisiana, Indiana, and Illinois, might, by possibility, have been lost. In that event, if a hasty calculation of his were not incorrect, the result would have been to take from one candidate twenty-eight votes, leaving him with seventy-one; to take from another candidate eleven votes, leaving him with seventy-three; to deprive a third candidate of twenty-six votes, leaving him only fifteen, and thus excluding him from the House, while the fourth candidate, losing on three, and being left with thirty-four votes, would have been brought into it as one of the three from whom the choice was to be made. It was impossible to reflect an instant, without perceiving how momentous, at that time, must have been the investigation of such questions. He desired, if possible, to prevent, in future, the occurrence of such a state of things. He was, he trusted, no political agitator. He desired not to disturb men's minds as to the past, but to seek a preventive against prospective, and, he hoped, distant, but

H. or R.]

Case of William Morgan.

[MAY, 1838.]

not improbable evils. How it was to be sought, he might not then be prepared to say. The wisdom of that House would, no doubt, find it, if they thought proper to commence the search. The first step was to obtain the information those certificates would afford. He asked for them by a resolution, which gentlemen of skill and experience in parliamentary precedent had kindly enabled him to place in what he conceived to be the established and respectful form of asking for papers in the possession of the Senate. He regretted, even on this subject, having so long occupied the floor. Other gentlemen might not, perhaps, attach to it the same importance he did, but he should not feel justified in withholding this information any longer, and unless he deceived himself, the people of the United States, and future Electors, would find in it matter of sufficient pith and moment to secure him from the imputation of wasting any portion of that invaluable time, so much of which had been devoted to Presidential questions of another character. This was no party measure. He intended to provoke no discussion. It was at least doubtful whether any act of legislation was necessary or expedient. But the information might be at once curious and useful, and gentlemen would vote to obtain or to refuse it as they thought proper. Without the warning it would afford, such returns might be made again, and some wiser or bolder politician be found to challenge them exactly at the right moment of a crisis decisive of the fate of men, and deeply affecting even the destinies of the Republic.

Mr. LITTLE thought there was no need of agitating this subject, particularly at so late a period in the session. The elections in the States were not subject to the revision of Congress, and if the certificates stated truly the result of such elections, it was to be inferred that they were held according to the law and constitution, unless the contrary were made to appear. He therefore moved that the resolution be laid upon the table; which motion prevailed—ayes 80, noes 37.

MONDAY, May 12.

*The Case of William Morgan, supposed to have been put to Death by Free Masons.*

Mr. TRACY offered the following memorial, and moved its reference to the Committee on the Judiciary:

To the Hon. Senate and House of Representatives of the United States, in Congress assembled:

The memorial of the subscribers, delegates assembled at Le Roy, in the county of Genesee, and State of New York, respectfully sheweth, that your memorialists have been delegated by the people of the several counties which they represent, to meet in convention at this place, to take into consideration the kidnapping and final disposal of William Morgan, late of Batavia, in the county aforesaid, a citizen of the United States, who was forcibly taken

in the month of September, 1826. Your memorialists are informed, and verily believe, that the said Morgan was carried to Fort Niagara, and there imprisoned for a length of time, without legal authority. Your memorialists conceive it proper, inasmuch as Fort Niagara was then in charge of an officer or agent of the United States, and under the jurisdiction of the General Government, to apply to Congress for aid in the premises; and your memorialists, therefore, humbly pray that an inquiry be instituted, to ascertain whether the said William Morgan was or was not received and imprisoned within the walls of Fort Niagara, in the month of September, 1826; and if so, by whom, and by what authority, he was so received and imprisoned, and to whom he was delivered from thence—the inquiry to be made in such way and manner, and under such restrictions and limitations, as your honorable body may think most expedient. And your memorialists, as in duty bound, will ever pray, &c.

Dated at Le Roy, this 7th March, 1828.

The reading of the memorial being called for by several members, the Chair directed that it should be read for information; and it was read accordingly.

Mr. BUCHANAN said, the allegation of the memorial is, that an officer of the United States at Fort Niagara, received and imprisoned a man without legal authority; and if that case be made out, it is a proper subject for investigation.

Mr. CAMBRELENG, believing that the subject did not come at all within the jurisdiction of Congress, moved that the petition be referred to the President of the United States.

Mr. WRIGHT, of Ohio, expressed a doubt whether the House had a right to make such a reference of a matter not within their own jurisdiction.

Mr. McDUFFIE disclaimed the least doubt on that subject, and said there were many cases where the House had referred matters to the President, not merely, but to the Heads of Departments.

Mr. LITTLE now moved that the petition be referred to the Secretary of War.

Mr. P. P. BARBOUR, Chairman of the Committee on the Judiciary, said, that this matter appeared to him to lie within the narrowest possible compass. He was of opinion that Congress had nothing whatever to do with the subject of the petition. If an officer of the United States had been guilty of any act subjecting him to punishment, under the existing laws of the country, the proper resort was to the Judiciary; but if he had committed some act, not forbidden by law, but in violation of his duty as an officer, then he is responsible to the President of the United States; and the Executive officer of the Government will in the discharge of his duty take the necessary steps to bring him to punishment. Is it intended to refer this petition to the Committee on the Judiciary, with a view to any legislative action in the case? It was out of the question. He hoped, therefore, the subject would not be sent to the Committee on the Judiciary.

MAY, 1828.]

*Case of William Morgan.*

[H. OF R.]

Mr. STORRS said, that he hoped his colleague (Mr. TRACY) would consent that the memorial be referred to the President. Mr. S. could state, for the information of the House, that an order had issued from the War Department for arresting the officer commanding at Cantonment Towson, in the Arkansas Territory, on a charge of refusing obedience to the instructions of the Department, to aid in the arrest of Colonel King, and the delivery of him to the messengers sent from the State of New York. The Department had ordered this officer to New York on his arrest, that the inquiry might be had without the inconvenience of requiring the witnesses from that State to attend at a distant post, and where the civil authorities of the State could be at hand, to co-operate efficiently in any measures necessary to be pursued for a fair and full investigation of the charges. Mr. S. said, that he had full confidence that the Government would promptly investigate any complaint made, by so respectable a body of citizens, against any officer of the United States; and, as an investigation growing out of the failure to arrest Colonel King, was now in progress, he thought this memorial, also, should be referred to the Executive or the War Department. Prompt measures had been taken on the application of the late Executive of New York, in relation to the arrest of Colonel King; and he did not doubt, that, if it should appear that any officer of the United States had been concerned in the alleged abuses which had been charged to have taken place at Fort Niagara, the Government would interpose its authority to bring them to a serious and prompt investigation. He hoped therefore, that the House would agree to refer the papers to the Executive Department.

Mr. TRACY replied, that it was immaterial to him which direction the petition took; if it was thought that the Executive would be the more appropriate Department to consider it, he would acquiesce with cheerfulness. The only reason he had moved its reference to the Committee on the Judiciary, was, an apprehension of some difficulty on the question of jurisdiction, inasmuch as Fort Niagara was within the exclusive jurisdiction of the State of New York, never having been ceded to the United States. He consented to withdraw his motion for referring the petition to that committee; and the question being on its going to the President of the United States,

Mr. DRAYTON insisted that this was a case in which the House ought not to interfere. He thought it had been too much the practice, of late, for Congress to interfere in matters not strictly within its cognizance, to the delay and injury of that which legitimately pertained to it. If there was no remedy provided by existing laws for the case to which this petition related, there might be some reason for applying for the legislation of Congress; but nothing was more plain than that the law did furnish a full and easy remedy. Under the 88d rule of the articles of

war, it was provided, that, if an injury is committed by any officer in the service of the United States against the laws of any of the States, he shall, on demand, be surrendered to the civil authority, to be tried and punished accordingly. It did not appear that, in the present case, this course had been tried without effect. Until that was the case, there could be no ground for the interference of Congress in the matter. Redress was easy; the way to obtain it plain and obvious; and no consequences would result from special legislation, which were not already as well attained without it.

Mr. GILMER rose to state the fact, that it had been solemnly determined on argument, in court, that Fort Niagara was within the jurisdiction of the State of New York, and that all offences committed therein were to be tried by the laws of that State alone. This fact was, of itself, sufficient to show, that the subject of this petition could not come within the purview of Congressional jurisdiction; and this fact must have been known to those who signed the petition. They could not be ignorant that the abduction of Morgan was a civil offence, punishable exclusively by the laws of their own State. He concluded by moving to lay the petition upon the table.

Mr. GILMER, however, consented to withdraw the motion at the request of

Mr. STEVENSON, of Pennsylvania, who, on rising, observed—that, with a view to a few remarks, he would request Mr. GILMER to withdraw his motion to lay the memorial on the table; which, being complied with, Mr. STEVENSON said he hoped the motion to refer the memorial to the President of the United States would prevail. The memorialists alleged, that William Morgan was forcibly taken, in the month of September, 1826, to Fort Niagara, in the State of New York, and there held in secret captivity by an officer of the Army of the United States commanding at that post. The President of the United States is, in virtue of his office, the Commander-in-Chief of our Army. The kidnapping and confinement of Morgan is alleged to have taken place in 1826—consequently, during the time of the present President. If, then, any officer, under the command of, and subject to the control of the President, has been at all accessory to the alleged offence against Wm. Morgan, let the investigation be made by the superior officer, of the act of those under him, and let him see that the proper punishment be extended to his offending subaltern. This is the true course. The President possesses due power, and if those subject to his control are allowed to escape due punishment, let the responsibility rest where it ought.

Mr. SMYTH, of Virginia, allowed the truth of the statement, that Fort Niagara was within the jurisdiction of the State of New York; but this was a complaint urged against a military officer in his official character, and it had been

settled, on a former occasion, that such a complaint did belong to the notice of Government, but should first be subjected to the decision of a Court Martial. The petition was entitled to all respect, and he hoped it would be referred to the President.

Mr. WRIGHT, of Ohio, said he agreed in opinion with several gentlemen who had so expressed themselves that this memorial ought to go to the Executive. But, while he declared his concurrence with gentlemen on this point, it did not follow, in his opinion, that it should be transmitted to the President through this House, or by the exertion of its power. He conceived it to be very clear, that the House had nothing to do with the subject, or with the memorial. It made a case, if truly set forth, of ordinary infraction of the law, and should be left to the ordinary tribunals of justice, or the ordinary exercise of Executive power. He was unwilling to lend the aid of the House to facilitate, in any other way than by legislation, either investigations in Courts of Justice, or by the President. He was wholly opposed to making this House the conduit through which to pass complaints, either to the President, or other officer, or to the courts. If true, as had been stated, that the jurisdiction of the State of New York had never been withdrawn from Fort Niagara, then the question belonged to the Judicial officers of that State, and complaint should be made in the usual way; and if that jurisdiction had been withdrawn, and vested in the General Government, then similar proceedings should be instituted and prosecuted before the Judicial officers of the Union. No complaint is made, that any officer of this Government has refused any proper application to do his duty; if that were the case, the House might proceed—it would then have jurisdiction. He said, it was clearly his opinion, that the House had nothing to do with the matter. His view was, and he felt confident it was correct, that the House had jurisdiction for the purpose of its own action, or not at all. It had no jurisdiction of any subject, for the mere purpose of transmitting it to the President or any other branch of Government. He desired to keep the House free from any proposition got up for effect here, or elsewhere.

If in order, he said, he would move that the petitioners have leave to withdraw their petition, that they may send it to the President through some other channel of conveyance; if not in order, he hoped the reference to the President would be rejected, and he would then make that motion.

The chair said, that a motion for leave to withdraw the petition, did not take precedence of a motion to refer.

Mr. BUCHANAN hoped that the House were not about to be seized with the Morgan fever. We should treat this petition, as we do all others, which come from respectable citizens. The petitioners allege, that a Military Officer of this Government—whilst in the command of

Fort Niagara—in violation of the laws of the State of New York, imprisoned and detained within that fort a citizen of the United States; and they ask us to institute an inquiry, for the purpose of ascertaining the truth of this allegation.

Mr. B. admitted there was some force in the argument of the gentleman from Ohio, (Mr. WRIGHT.) The petitioners may not have applied to the proper tribunal for redress; but we should ever remember, that the right of petition was a sacred right. If they have mistaken their remedy, this is not a good reason why we should refuse to consider their petition. In such cases it had ever been the practice of the House, so far as he was acquainted with it, to consider the petition, and refer it to the most appropriate Standing Committee. Upon the present occasion, the proper committee would be that of Military Affairs. Their report would, without doubt, recommend that the House should refer this petition to the President of the United States. There can then be no objection against sending it to him immediately, when we know such would be the effect of its reference to that committee.

Sir, said Mr. B., I dissent entirely from the opinion expressed by my friend from Georgia, (Mr. GILMER,) that this is not a proper subject of reference to the President. If a criminal offence has been committed within Fort Niagara, it may be true, that its trial and its punishment belong exclusively to the jurisdiction of the State of New York. But what is the inference to be drawn from this position? Does it follow, that, if an officer of your army were to violate the liberty of a citizen, and imprison him within that fort, that this would not also be an offence against the United States? Certainly not. He ought not only to be punished under the laws of the State, but he ought to be dismissed from the service of the United States. I would ask that gentleman, if one of our military officers, in the command of troops of the United States, abusing his power, were lawlessly, by their agency, to imprison a citizen of Georgia, in a place under the exclusive jurisdiction of that State, if he would not consider this to be a high crime committed against the whole American people? Would he be willing that a man guilty of such an outrage against a citizen of the State, should continue to be a Military Officer of the United States? It is true he might be punished under the laws of Georgia; but it is equally true, that, in addition to that punishment, he ought to be removed from the army. Should the petitioners be able to establish the guilt of this officer, whoever he may be, the President should not hesitate a moment in dismissing him from the service. The reference of this petition to the President is rendered peculiarly proper, in consequence of the circumstance which has been disclosed by the gentleman from New York (Mr. STORRS) that the subject is already before the Secretary of War. Mr. B. trusted that the reference would

MAY, 1828.]

*Revolutionary Officers.*

[H. OF R.]

be made without further debate, and that the subject would be dismissed, without occupying more of the time of the House.

Mr. HAILE reminded the House that they were about to adjourn on the 26th. The present discussion seemed likely to occupy a considerable time, and, in his opinion, it was a matter of little consequence whether this Morgan was dead or alive. He, therefore, demanded the yeas and nays. The demand was sustained—ayes 80, noes 66.

The previous question was then put and carried, and the main question on referring the petition to the President of the United States being stated, Mr. TRACY demanded that it be taken by yeas and nays. They were ordered by the House, and, being taken, stood as follows—yeas 143, nays 70.

*Revolutionary Officers.*

Mr. SUTHERLAND moved that the House go into Committee of the Whole. The motion prevailing, Mr. CONDIOT was called to the chair.

The committee proceeded to consider the bill from the Senate, for the relief of the surviving officers and soldiers of the Revolutionary War; and the question recurring on the following amendment, moved on Wednesday last by Mr. GILMER, viz: to amend the first section of the bill, by restricting payment to those officers whose commissions bear date prior to the commencement of the year 1778—

Mr. CULPEPER stated, that he was in favor of this bill, and as he was persuaded that it could only pass in its present form, he conjured all its friends to refuse every amendment, and to offer none.

Mr. GILMER's amendment was negatived.

Mr. WOLF moved to strike out the second section, and insert a substitute, which he offered.

Mr. W. defended the amendment he had offered, on the ground that the bill, as it at present stood, would favor the richer officers, who had not been under the necessity of accepting any pension, by giving them the full allowance, while it oppressed the poorer class, whose want had compelled them to petition, in *ferme pauperie*, and to accept a pension.

Mr. GILMER offered an amendment to the amendment of Mr. WOLF, which went to exclude all who had received a pension.

The amendments were opposed by Messrs. TAYLOR, DRAYTON, ANDERSON of Maine, SERGEANT, BUCHANAN, WEEMS, and TRACY, and advocated by Messrs. GILMER and WOLF.

TUESDAY, May 18.

*Revolutionary Officers.*

The bill for the relief of the Revolutionary officers having come into the House by the discharge of the Committee of the Whole from the farther consideration of it, and the question being on ordering the bill to a third reading—

Mr. STERIGEE moved the previous question (the effect of which is to preclude all farther amendment and debate); it was decided in the negative—ayes 64, noes 75.

Mr. LITTLE renewed the amendment, which had, yesterday, been moved by Mr. BARRINGER, when the bill was in committee, going to include those who had served during two years. Mr. BARRINGER modified the resolution by adding the words, "and honorably discharged."

The amendment was opposed by Messrs. MARVIN and TAYLOR, not on the principle, but from the danger to the whole bill, from any further delay at the present late period of the season.

Mr. LITTLE disavowed all hostility to the bill.

Mr. TAYLOR moved the previous question. The motion was sustained, ayes 82, noes 75: and the previous question being put, "Shall the main question now be put?"

Mr. BARRINGER moved that the question be taken by yeas and nays. It was then decided by—yeas 100, nays 82.

The main question being then put, on ordering the bill to a third reading, it was decided by—yeas 124, nays 64. The bill was then read a third time; and the question being, "Shall it pass?"

Mr. CLARK, of Kentucky, after some severe remarks on what he denominated the indecent solicitude of the friends of the bill to force it upon the House, (and which were declared by the Chair not to be in order,) moved an amendment, going to include the medical staff of the army.

The Chair decided that the amendment could not be received in the present stage of the bill, unless by the unanimous consent of the House.

Mr. BASSETT expressed his dissent, not, however, out of any friendship to the bill, to which he expressed himself entirely opposed.

Mr. CLARK then resumed the floor, and delivered a speech at great length in opposition to the bill generally, the provisions of which he considered as partial and unjust in the extreme. He denied the doctrine of contract, insisted upon the propriety of including the militia, and deprecated the effect of the bill upon the Treasury, as going to add not less than six thousand to the existing list of pensioners.

Mr. PEARCE demanded the previous question, which was sustained—ayes 74, noes 47. The previous question was then put and carried, and the main question having been stated: "Shall this bill pass?"

Mr. CONDIOT demanded the yeas and nays, and they were ordered.

The final question was taken as follows:

YEAS.—Messrs. Allen of Mass., Anderson of Me., Anderson of Pa., Bailey, Baldwin, Barber of Conn., J. S. Barbour, Barker, Barlow, Barnard, Barney, Bates of Mass., Bates of Mo., Belden, Blake, Brent, Brown, Buchanan, Burges, Butman, Cambreleng, Chase, Clark of New York, Condict, Coulter, Creighton, Crowninshield, Culpeper, Davenport of Ohio,



H. OF R.]

Office of Major General.

[MAY, 1828.]

Davis of Mass., De Graff, Dickinson, Drayton, Dwight, Earll, Everett, Findlay, Fort, Forward, Fry, Gale, Garrow, Gorham, Green, Gurley, Hallock, Harvey, Healy, Hobbie, Hodges, Hoffman, Holmes, Hunt, Ingersoll, Johnson, Johns, Keese, King, Kremer, Lawrence, Lea, Leffler, Little, Livingston, Locke, Mallary, Markell, Martin, Martindale, Maxwell, McIntire, McKean, McKee, McLean, Mercer, Merwin, Miner, Newton, O'Brien, Pearce, Pierson, Plant, Ramsey, Reed, Richardson, Ripley, Sergeant, Smith of Indiana, Sprague, Sprigg, Sterigere, Storrs, Strong, Swann, Swift, Sutherland, Taliaferro, Taylor, Thompson of N. J., Tracy, Tucker of N. J., Varnum, Verplanck, Wales, Ward, Washington, Weems, Whipple, Whittlesey, Wilson of Pa., Wingate, Silas Wood, Woodcock, Wolf, Wright of New York—115.

Navs.—Messrs. Addams, Allen of Va., Alston, Archer, Armstrong, Phillip P. Barbour, Barringer, Bartley, Bassett, Beecher, Bell, Blair, Bryan, Buckner, Carson, Carter, Chilton, Claiborne, Clark of Kentucky, Conner, Crockett, Davenport of Virginia, Desha, Floyd of Geo., Gilmer, Haile, Hall, Haynes, Isaacs, Lecompte, Letcher, Long, Lumpkin, Lyon, Marable, Maynard, McCoy, McHatten, Metcalfe, Mitchell of S. C., Mitchell of Tennessee, Moore of Kentucky, Polk, Roane, Russell, Shepperd, Smyth of Va., Stanberry, Thompson of Georgia, Trezvant, Tucker of South Carolina, Turner, Vance, Vinton, Wickliffe, Williams, Wright of Ohio, Yancey—58.

So the bill was passed.

WEDNESDAY, May 14.

Office of Major General.

On motion of Mr. SMYTH, the House proceeded (ayes 75, noes 69) to consider the bill abolishing the office of Major General.

Mr. VANCE moved to strike out the second section of the bill, which was in the following words:

"Sec. 2. *And be it further enacted*, That all officers serving by commission from the authority of any State, shall, on all detachments, court-martial, or other duty, wherein they may be employed in conjunction with the regular forces of the United States, take rank next after all officers of the like grade, either by brevet commission or otherwise, in said regular forces: notwithstanding the commissions of such militia, or State officers, may be older than the commissions of the officers of the regular forces of the United States."

In support of his motion, Mr. V. said, that he considered this bill as going further than any bill had ever gone before. He sent to the table a letter from the Department of War, which he desired to have read. He then stated, that one of the greatest difficulties a commanding General had to encounter, was to preserve a state of harmonious feeling among his troops. He did not, therefore, wish to place it in the power of unqualified individuals to fill that responsible station.

Mr. DWIGHT hoped this motion would prevail. The effect of the amendment is to make a distinction between the officers of the army and the militia, so that they shall not come in

conflict with each other. He referred to the equality of rank between General Jackson and General Brown, and asked the House to reflect on what might have been the effect upon these distinguished men, if they had been placed under the command of a militia officer.

Mr. BUCHANAN said he should not have said a word upon this bill, had not his attention been drawn to the second section of it, by the motion of the gentleman from Ohio, (Mr. VANCE.) He would have contended himself with a silent vote in favor of its passage. But, said Mr. B., I belong to the militia myself—I have a fellow-feeling for them, and I never shall consent to degrade them; for after all, they are the great bulwark of our defence. The second section of this bill will produce that effect. A Captain in the regular army, after he has continued in the service for ten years, is breveted a Major, and in ten years more he becomes a Colonel by brevet. The mere lapse of twenty years transforms a captain into a colonel by brevet, and gives him this honorary rank; although he may still remain but a captain in the line, and be entitled to command but a single company. Brevet rank is therefore acquired, in our army, without any extraordinary merit. Under this section, such a captain would be entitled to rank a colonel of volunteers or militia who had led his regiment into the field, and to assume the command. I ask, will not any law, which would operate in this manner, tend to destroy the spirit of the militia, and to degrade them both in their own eyes and those of the nation? The past history of this country proves that they do not deserve such treatment at our hands. During the last war, the militia purchased glory both for themselves and for their country, upon the field of battle; and our most brilliant victories were those achieved under the command of men, who had been militia Generals, and who were transferred to the same rank, in the regular army.

It has been objected, against the passage of this bill, by the gentleman from South Carolina, (Mr. DRAYTON,) that if the office of Major General should be abolished, a militia Major General would then command an officer of the highest rank in our army, should regular troops and militia be called into service together. Even if we should admit this construction of the law to be correct, the inconvenience which that gentleman apprehends, would never occur in point of fact. The army is now on a peace establishment. When war shall threaten us, it must immediately be reorganized. We must then call into existence a new head to the army, and confer upon him a rank which will entitle him to command a Major General of militia. It is scarcely possible, therefore, that the case supposed by the gentleman can ever exist.

If this bill should pass, it will afford the President of the United States an opportunity of placing at the head of the army, in the event of war, an able and an efficient man, and relieve

MAY, 1828.]

*Office of Major General.*

[H. OF R.]

the country from the danger of having that station pre-occupied by a superannuated officer. In the mean time, no inconvenience can be experienced. The President is Commander-in-Chief of the army; and it is his duty to decide the question of rank, which has so long existed, between the two Brigadier Generals. The one or the other of them will then be the chief officer of the army. But it was not my intention to discuss the main question; I rose merely to defend the militia, and I shall proceed no further.

Mr. SMYTH made a few observations in reply; and asked if it would be considered a degradation that General Scott should take command of any of the Major Generals who have probably seats on this floor. He was about to proceed in some general observations on the bill, when he was reminded by the Chair that the question was on the amendment—and he sat down.

Mr. VANCE said, that officers who had received brevet rank as the reward of distinguished services, were placed on a different footing with those who obtained brevet rank in consequence of a certain term of service. He stated, that as the militia have no brevet rank, a Lieutenant of the army, having brevet rank, might go and take a Colonel's regiment from him.

The amendment was agreed to.

And the question occurring on engrossing the bill for a third reading—

Mr. McDUFFIE said he rose to say a word or two in opposition to this bill, and he would take leave to say, at the commencement, that, so far as he was capable of forming a judgment on this matter, this was one of the most unwise measures that could possibly be submitted to a deliberative assembly. I take it for granted, said he, that it is the object of this bill to accomplish one of these two objects: either to improve the organization of the Army, or to effect a retrenchment of the expenses of the Military Establishment. Now, sir, I presume no *Military* man will undertake to say, that it will improve the organization of the Army, to deprive it of a military head. I say no military man, sir, because I am aware that the gentleman from Pennsylvania—who, like myself, is not a military man—has made a grand discovery on the subject of organizing a peace establishment, which may prove to be one of the greatest improvements in the art of modern warfare. The plan of the gentleman is to have no Major General or Commander-in-Chief in time of peace, lest he should become superannuated before the occurrence of a war. By keeping the chief command of the Army vacant in time of peace, the gentleman says the President will have it in his power to place a young and vigorous man at the head of the Army in the event of a war. My only surprise in this matter is, sir, that the gentleman has not extended his principle a little further. The same reason will certainly apply with equal force to the Brigadiers, the Colonels, the Captains; and, in

a word, to the whole rank and file of the Army. It would be certainly desirable to get rid of superannuated soldiers, and have those that are young and vigorous. Indeed, I think the principle of the gentleman applies with greater force to the subordinate officers, who rise by seniority, than it does to the office of Commander-in-Chief, in relation to which the Executive has an unlimited discretion. Thus, sir, we should make short work of re-organizing the Army. We should get rid of it altogether. There would be at least something like retrenchment in this.

But this proposition to dispense with the Commander-in-Chief, has nothing to recommend it, either on the score of improving the organization of the Army, or of curtailing its expenses. In the former regard, it is absolute disorganization, as far as it goes. In the latter it is the very worst possible retrenchment conceivable. There is no part of the Army, where you might not save an equal sum of money with less injury to the public service. Out off the legs or the arms, but I pray you spare the head. We were informed by my friend and colleague, the Chairman of the Military Committee, the other day, that the proposed change would save annually not more than two or three thousand dollars. Now, sir, if the object is to save this sum, cut off some three or four Colonels, some six or eight Captains, or some twenty or thirty common soldiers. These would be curtailments to be sure; but they would not materially injure the public service: for they would not destroy or impair the organization of the Army. Upon the whole, sir, I regard this bill as being positively injurious on the score of organization; and wholly unworthy of consideration on the score of retrenchment and economy.

Mr. RAMSEY then offered the following amendment; which was negatived:

*"Be it further enacted, That, as soon as the two commissioned Brigadier Generals shall resign, die, or be dismissed from the military service of the United States, no appointment shall be made to supply such vacancy."*

Mr. SMYTH, of Virginia, said, that he could not assent to the opinion of the gentleman from South Carolina, (Mr. McDUFFIE), that the abolition of the office of General-in-Chief would be injurious to the organization of the Army. The President is Commander-in-Chief of the Army of the United States. If the President and Secretary of War perform their duties as regards the Army, there can be no occasion for a Commanding General residing at the Seat of Government. There ought to be no other Commander-in-Chief than the President, either in war or peace. The Commanding General stationed at the Seat of Government can have no duties assigned to him, but such as properly belong to the President, the Secretary of War, the Adjutant General, or an Inspector General.

Does experience prove that any such General-in-Chief, is necessary? The Romans had no

Commander-in-Chief except the Dictator, or the Emperor. Neither during the Republic, nor during the reign of their most unmilitary Emperors, was there a Commander-in-Chief at the Seat of Government. The French, during the war of the Revolution, had no Commander-in-Chief at the Seat of Government, when Bonaparte was in Italy, and Moreau in Germany. We had no General-in-Chief residing at the Seat of Government in 1814 and '15 when Jackson and Brown were achieving the triumphs of the late war. We had no General-in-Chief from 1815 until 1821. This proves that the office is not necessary, neither in peace nor in war. The country was divided into two divisions, and a Major General commanded the troops in each division, receiving his orders from the War Department.

I will refer the gentleman from South Carolina (Mr. McDUFFIE) to the plan of Mr. Calhoun, for the reduction of the Army. In his report on that subject, made in December, 1820, he said: "It is believed that the true principle of organization is, that *every distinct branch of the staff* should terminate in a chief, to be stationed, at least in peace, near the Seat of Government, and to be made responsible for its condition. It is thus the Government may at all times obtain correct knowledge of the condition of the army, in each particular, and be enabled to introduce method, order, and economy, in its disbursements." It is at present, with *slight* exceptions, thus organized, &c. His plan was to retain two Major Generals, four Aids-de-Camp, four Brigadier Generals, four Aids-de-Camp, &c. It thus appears not to have been the opinion of Mr. Calhoun, that a General-in-Chief, residing at the Seat of Government, was essential to the proper organization of the army. It was the Staff Department, as the Quartermaster's Department, the Purchasing Department, the Subsistence Department, the Medical Department, that he believed should terminate in a chief, to be stationed at the Seat of Government.

Where shall we find precedents to recommend this organization of the army, which requires a Cabinet Commander-in-Chief residing at the Seat of Government? Is it in the example of the Duke of York, who held the command of the British army, and all its patronage? Or is it the example of the Duke of Wellington, who is Prime Minister, commander of 110,000 men, and the real sovereign of Great Britain? Sir, I have some reason for being of opinion that the Executive, during the late war, wanted no such office as that of General-in-Chief. It is safest that the command of the army should be divided among the Generals, and that it should have no head except the President, who is also the civil head of the Government. I hope if we ever shall find a Cæsar in the army, we shall also find a Pompey.

It has been urged that there is a Navy Board to assist the Secretary of the Navy in the performance of his duties, and that, therefore,

there should be a General-in-Chief. It may be a question whether the law establishing the Navy Board has not too much circumscribed the powers of the Secretary of the Navy; but the essential aid which is rendered to the Secretary of the Navy by the Navy Commissioners, is rendered to the Secretary of War by the heads of the Army Departments, as the Quartermaster General, the Commissary General, the Surgeon General, and by the Commander of Engineers, and by the Commander of Ordnance—all stationed at the Seat of Government. The Adjutant General, under the direction of the Secretary, will order troops from one division to another, as circumstances may require, and will subscribe the orders "By the President," instead of "By the Commanding General." There can be no occasion for an order to pass through grades of Generals before it arrives at the post where it is to be carried into execution.

The gentleman from South Carolina (Mr. McDUFFIE) has said that we will save only 8,000 dollars by abolishing the office of Major General. How does he prove this? The document laid on our table shows that the pay and allowances to this officer, and the extra allowances to his aids, may amount to about 11,700 dollars per annum. He supposes that the senior Brigadier General will be ordered to the Seat of Government, to perform those services which were rendered by General Brown; that a Colonel will be ordered to fill the place of that Brigadier General, and command a division, and so on. I will not suppose it. We cannot interfere with the President's authority to command the army; but if the office of General-in-Chief shall be abolished by law, I presume the President will understand that it is not expected he will continue it in fact. I presume that he will adopt the arrangement which existed from 1815 until 1821.

As to the military advice which the Secretary of War requires, he has near him General Macomb, the Chief Engineer, whose utility would not be increased by his elevation to the office of Major General. And the advice of the Chief of the Engineers is, in the present state of our military preparations, precisely the military advice which will be most important to the Secretary of War and the President.

Mr. BUCHANAN said he felt himself bound to reply to some of the remarks of the gentleman from South Carolina, (Mr. McDUFFIE.) That gentleman has been pleased to say that I had made a grand discovery when I found out that the army of the United States ought to be left without a head in time of peace. He has also endeavored to prove that the principles which I advocated would result in abolishing all the offices in the army. Indeed, from the tenor of his observations, it might be supposed that I had expressed a desire to destroy the whole military establishment of the country—horse, foot, and dragoons.

That gentleman has not only done me injus-

May, 1823.]

*Office of Major General.*

[H. OF R.]

tice in the manner he has stated the proposition which I advocated, but he has drawn the most unnatural and the most illogical inferences from my argument.

It is well known that, up to the rank of Colonel, the officers have a right to be regularly promoted. Beyond that rank, no such right exists. At that point regular promotions, according to seniority, cease. Within this limit, I trust I should be one of the last men in this House who would attempt to interfere. I shall ever hold all existing rights of the officers sacred. But what is the case above the rank of Colonel? It has been the uniform practice of this Government to leave the discretion of the President unfettered, and to allow him to select general officers from the mass of the American people. Why has this practice prevailed? Is it not to enable the President to select such men to fill the high offices of the army as may be best able to serve their country? Our present army is emphatically a peace establishment. Its present organization never was intended for a state of war. I wish, therefore, to leave every avenue open, which I can do with a proper regard to the existing state of things, for the purpose of enabling the President, in the day of danger, to fill the high offices of the army with efficient commanders. And yet the gentleman from South Carolina has contended that my argument, which was specially confined to the office of Major General, would equally apply to officers of every grade, and lead to the destruction of the whole army.

The case of General Brown will strikingly illustrate the truth of the proposition for which I contended. He was a great military man. Nature had made him a commander. He commenced his career in the militia, and then was appointed a General in the service of the United States. During the last war, he not only distinguished himself, but he distinguished his country. But I would ask the gentleman from South Carolina, whether General Brown, for years before his death, would have been fit to take the command of the army, and go into active service? Time and disease had laid their heavy hands upon him, and had rendered him wholly unable to take the field against an enemy. In considering this subject, we should never forget that the present army is emphatically upon a peace establishment; and that, by abolishing the office of Major General, when danger shall threaten, and when it becomes necessary to organize our military establishment for a state of war, the field of competition for the highest office in it will be left entirely open. The President may then select the most capable man in the country for that arduous station, whether he be found in the militia, the regular army, or among the private citizens of our country. It is certain he ought to be an efficient man, capable of rendering his country service, and not a superannuated officer.

Sir, I propose to take a view of the organization of our army, and the powers of the differ-

ent departments of command, in order to show that this office is not what its name implies to our vague and uninformed notions of it—the supreme head of our peace establishment; that it is, in truth, a useless station. We have a regular force of 6,186 strong—544 of which are commissioned officers—constituting about the 11th part of the whole. This force is distributed among 89 or 40 posts, at no one of which is there an assemblage large enough to constitute a full Brigadier's command. These posts are arranged, and the army divided into two general commands, which are designated as Geographical Departments, and placed under the two Brigadiers, Scott and Gaines—to whom (laying out of view, for the present, the General-in-Chief) the Secretary of War is the common head, the supreme source of authority. The Secretary of War bears the same relation of command to the two Geographical Departments, which the General bears to the several regiments within his department, which the Colonel holds towards the several companies of his regiment, and which the captain maintains towards the several files that compose his company. This succinct view of the lineal command of the whole army, and of its divisions and subdivisions, shows that (independent of the office of Major General) there is provided in the person of the Secretary of War the same common head for the whole, that its several parts possess in their respective chiefs. Does not this exhibit, in those respects, a complete organization? But it is said, that the Secretary of War is not the authority suitable for, and adequate to the control and superintendence of, the Government and well-being of the army; and that, therefore, it is necessary to place between him and the army, this office of General-in-Chief, for the purpose of regulating, in the language of the gentleman from South Carolina, (Mr. HAMILTON,) "its details, the distribution of its parts, its discipline, and improvements."

With the view of showing that this estimate of the Secretary of War is a mistaken one, permit me to turn your attention to the nature and scope of his functions. By the constitution, the President is the Commander-in-Chief of the army and navy of the United States. In the distribution of the powers of the Executive through the several Departments of the Cabinet, his military attributes are placed in the hands of the Secretary of War. The act creating the Department of War, declares, that its Secretary "shall perform and execute such duties as shall, from time to time, be enjoined on, or entrusted to him by the President of the United States, agreeably to the constitution, relative to military commissions, or to the land forces, or warlike stores of the United States, or to such other matters respecting military affairs, as the President of the United States shall assign," &c. Does not this furnish a range of powers ample enough to embrace "the details, distribution, discipline, and improvements of the army," or any thing that can fall within the supervision

of supreme authority over a peace establishment? Why, sir, the laws created and placed in immediate subservency and responsibility to him, a corps of staff officers, called the administrative departments of the army, for the purpose of enabling the Secretary of War to discharge that very class of duties which the advocates of this office deny him the possession of. There is one, an Adjutant General, who is at the head of the Bureau of official correspondence. 2. A Quartermaster General, with Commissariats, for the purpose of administering all the supplies of clothing, subsistence, quarters, transportation—in fine, all the facilities in the progress and conveniences in the location of troops. 3. A Paymaster General, whose duties are too obviously explained by the title, without requiring a further definition. 4. A Surgeon General, having charge of whatever pertains to the conservation of the health of the army. 5. A chief of ordnance, for the construction, procurement, distribution, and preservation, of all ordnance and ordnance stores. 6. A chief of Engineers, to conduct all works and operations requiring scientific knowledge and skill, and to superintend the institutions established by the munificence of our Government, for instruction in military science and art. And in describing these administrative departments, by their respective chiefs, I mean to include, in the same chain of dependence on the Secretary of War, their numerous subordinates. It is also important to add, that this control over them by the Secretary is exclusive—that the law keeps them aloof from the authority of the General-in-Chief.

I am confident that this general aspect of our military organization is insufficient to show that the Secretary of War has abundant power in the contemplation of law, by his own act, and through the agency of his staff, to administer to all the wants, interests, and concerns of the army, in a time of peace—from the construction and equipment of fortifications—from the inculcation of the love and practice of the most scientific abstrusities of the military art, to the supplying of the humblest private with the just weight and measure of his daily ration—to the Secretary's sign manual on a staff subaltern's furlough, or a sutler's license.

Now, sir, let us look at the office of General-in-Chief, let us examine his duties; and I venture to affirm, that they will be found, in a time of peace, so slight in number and importance, that they may be easily transferred to other departments of command, without marring the symmetry of our military system, or disturbing the harmony of its operations, which the gentleman from South Carolina (Mr. McDUFFIE) so much deprecates.

1st. In the distribution or arrangement of troops to stations. The issuing of orders for this purpose devolves on the General-in-Chief. But there are these exceptions: the President is to designate the limits of the geographical or department commands. The assent of the

Secretary of War is necessary to enable the General-in-Chief to fix the customary Head Quarters of the Department Generals. Troops are not to garrison a fort until its completion and inspection, but by order of the Secretary of War; and the assignment of subaltern officers to ordnance or subsistence service, is only to be made by order of the Secretary of War. I conceive, sir, that the Secretary is as well qualified to perform that class of duties under this head, which now belongs to the General-in-Chief, as those which devolve upon himself. What is requisite to enable him to do so? A knowledge of the country—its resources for supply—its avenues of communication—its defences—its proximity to points of hostility—its climate—the character of the troops—their adaptation to the region in which they are to be stationed, on the score of health, habits, efficiency—and the fitness of the corps for the peculiar service of the station. And all the necessary facts and considerations on these topics are furnished to the Department periodically, and especially, if required, in the inspection returns of the Department and Inspector Generals, and in the returns and remarks of the Quartermaster and Surgeon Generals and the Engineers. Assuredly, the Secretary of War must be supposed, though destitute of tactical skill and experience in the field, abundantly competent, under all this advice and instruction, under the consummate skill, science, and experience of his staff, to determine the station of 6,000 men, on the American soil, in a time of peace. Why, sir, it is on the same sources and means of information that the General-in-Chief himself is to depend, in the performance of the same duty. I will add, that, when the posts become fixed, (as they are at present,) the General-in-Chief has but little or nothing to do with the arrangement of troops, as the distribution of the recruits devolves upon the Adjutant General, who, under advice with the superintendent of recruits, arranges all those enlisted at a principal depot to the various regimental and other commands.

2d. The inspection of troops. This is done—1. By the Department Generals once in two years. 2. By the Inspector Generals, as the General-in-Chief shall direct. 3. And extra inspections shall be taken by the Department Generals, whenever the Secretary of War, or the General-in-Chief, shall order. The power of the General-in-Chief, under this head, is to control the Inspector Generals, as to time, &c., and co-ordinately with the Secretary of War, order special department inspections. I presume that the Inspector Generals have reduced their duties to a system; they are at least susceptible of it. In that case the power of the Major General to direct him is purely nominal, and of course it will not be denied, can be changed into the hands of the Secretary of War, without increasing materially, the labors of the latter, or lessening, in the slightest degree, the amount of professional ability employed. Surely the

May, 1828.]

*Office of Major General.*

[H. OF R.]

Inspector General can examine with as much fidelity and skill, and point out defects with as much truth and precision, when placed like the Quartermaster General in immediate dependence on the Secretary of War, as when standing in the inferior relation of an attaché to the General-in-Chief. As to special inspections by the Department Generals, under the order of the General-in-Chief or Secretary of War, they are seldom, if ever, resorted to. A partnership in a prerogative, whose exercise is barely problematical, is an inadequate inducement, surely, for retaining this office. Why not leave it exclusively where it is placed co-ordinately, in the hands of the Secretary of War?

3d. Recruiting troops. The General-in-Chief designates the recruiting grounds. He appoints the recruiting officers, and the superintendent, to whom those officers are to report and be responsible; and his express order is requisite for the purpose of enlisting any one prohibited by the general regulations of the army, as drunkards, persons diseased, and foreigners. According to the authority on which I principally rely, the army regulations, there seems to be allotted to this humble branch of the service more of the acts of the General-in-Chief, than to any other of the peace establishment. And no one will deny that it stands less in need of the high qualities of the military art. Is it not preposterous to retain this exalted and expensive rank to do that which, on a just scale of comparative importance between the agent and the object, could be much better given to the humblest command in the army? But let these duties be performed by the Adjutant General. To him it now belongs to distribute the recruits to the several commands, and the residue of this species of service may, with peculiar fitness and congruity, be placed in the same hands.

4th. Supplying the Army. 1, with arms, &c. 2, with clothing, subsistence, quarters, transportation, &c.

5th. Paying the army.

6th. The Medical Department. In relation to all these, it is sufficient to say, that the General-in-Chief has no specific authority. True, there is a general regulation that requires his approbation to a requisition for ordnance. But it is also true that it is dispensed with, if attended with such delay as will produce inconvenience or danger. And the Secretary of War can authorize a General, or field officer, having a command, to draw on the Ordnance Department at his discretion.

7th. The instructions and scientific operations of the army. With these the General-in-Chief has as little to do as with the supplies. The engineers proper and topographical, and the military academy at West Point, are exempted from the general army command; and through the chief of engineers fall directly under the control of the War Department. The school of artillery practice at Fortress Monroe

has a like privilege. It is under the direction of the Secretary of War, with whom its correspondence is carried on, through the Adjutant General. And the eminence of his station places the General-in-Chief at as great a distance from the supervision of the drill of the camp, as those regulations I have mentioned do from the higher branches of military erudition. The drill and discipline of the camp falls under the charge of those subalterns who are qualified for the task, by a complete and splendid professional education, bestowed upon them at the national expense. They are otherwise provided for by the War Department, in the general dissemination and frequent revisions of the system of tactics. So that circumstances do not require that of our General-in-Chief, which, perhaps, they did of the celebrated and eccentric Souwaroff, who is described by a noble bard, as

"Standing in his shirt  
Before a company of Calmucks, drilling,  
Exclaiming, fooling, swearing, at the inert,  
And lecturing on the noble art of killing."

Our army is regulated by a system, as every institution of corresponding size and complexity must be, to be well regulated—a system that prescribes to every functionary, every individual, his appropriate sphere of duty, and specifies the minutest detail with the utmost precision. In peace, when the affairs of the army are uniform and unchanging, rare indeed are the occasions that call upon its executive head for the exercise of discretionary powers. Hence the inutility of retaining the General-in-Chief as an adviser to the Secretary of War. In that capacity his usefulness has been advocated on this floor, on the ground that he must be a man, "who, by experience, understands the wants, and by sympathy, the feelings of the army." Sir, if the system is imperfect, let it be remodelled by the power that created it, the Department of War. If it is violated, let the offence be punished by the military judiciary. This will secure a more equal and just administration over the "wants" and interests of the army, than if left to the "experience and sympathies" of an officer, whose discretion is liable, at least, to degenerate into caprice or favoritism.

This review of the duties of General-in-Chief, Mr. Speaker, does not contemplate a state of war. In the field, I am aware, he becomes the source and regulator, the animating soul and informing head, of the most important operations; but those operations belong solely to a period of hostilities. In that sphere he revolves, a star of the first magnitude. But removed from it to the Seat of Government, thrown into overshadowing contiguity with that greater repository of power, the War Department, and he is "shorn of his beams"—he dwindles to a satellite.

But we are told that we must retain this office, so as to keep on hand, in readiness for the event of war, a General-in-Chief, possessing

experience and skill. Whenever war occurs in this country, it must be after long intervals of peace, and the probability is, that these periods of official indolence will survive the prime of manhood, and the vigor of intellectual and physical powers, which the General-in-Chief may possess on his assuming this office—and that he will be found, at the moment of active duty, tottering on the crutch of decrepitude; or, what will be much worse for the service, not so far advanced in the imbecility of old age (for then he might be laid on the shelf, and his place supplied by another) but belonging to its “disastrous twilight,” when he is ambitious to act, but inadequate to perform, at the same time is not willing to resign, and not subject to be dismissed, disappointing the hopes and sullying the fame of his country, by spending campaign after campaign in the vain process of being about to do what he never accomplishes. This, sir, is a historical, not a fancy sketch. It points to incidents in our late war, that we should learn wisdom from, as from the warning lessons of experience. But, sir, I do not believe that the military qualifications of an officer are to be preserved by placing him in a station, where he has nothing to do of a military nature, where he is pampered with a salary inferior to but one in your Government—with his head-quarters fixed at the head-quarters of fashion and politics, and dancing attendance at court, until his nostrils forget the smell of “villainous saltpetre.” Such a state of things, sir, is more fatal to soldiership, than was Camillus to Hannibal and his army. Sir, let us leave this office to be created and filled when the occasion requires. Let us leave to the wisdom and resources of the crisis, the opportunity of operating upon its own destiny. Instead of appointing a General-in-Chief, at such an indefinite period beforehand, to be the commander, at all events, and under all hazards of infirmity and incapacity, that meanwhile he is liable to from time from disease, and habits of indolence; let us leave to the Government of that day, the inestimable privilege of selecting for the guardianship of the national glory and safety, the best talents that the army at the time can furnish, or, indeed, the country at large: for an individual may be found in the walks of civil life, (I need not tell the House there has been such an instance,) pre-eminently gifted by nature with the high qualities of military command, superior to all that the drill of the camp or the black board of your academy can confer.

Sir, it was my intention to have shown that too exclusive a dependence was placed on the army, whenever we contemplated a state of war; that, after our fortifications and other strongholds are garrisoned by regular troops, the most safe and compatible defence for a nation, possessed of free institutions, and adverse to conquest, is her militia; in the improvement of which, much of the treasure which we now lavish on the army and education acquired at

the national expense, which is now buried in the camp, might be most profitably applied. The present wretched and inefficient state of our militia is a subject that calls, almost in the language of reproach, for the legislation of Congress. But I forbear; I have already extended this discussion beyond its proper limit. I will conclude with the opinion that this office is utterly useless; that its continuance is a violation of that fundamental principle on which all free and beneficent Governments are administered, that of rendering their benefits fully and effectually at the least avoidable expense; and that this limit transgressed, Government becomes, in that respect, in a greater or less degree, a burthen; its powers abused, its people oppressed.

Mr. MOORE, of Alabama, now demanded the previous question, and the demand was sustained by the House; and, on the main question, of ordering the bill to be engrossed for a third reading,

Mr. WILLIAMS demanded the yeas and nays; which being taken, stood as follows:

YEAS.—Messrs. Addams, Alexander, Allen of Va., Alston, Anderson of Maine, Armstrong, Barber of Conn., P. P. Barbour, Barringer, Bell, Blair, Blake, Brent, Brown, Buchanan, Buckner, Buck, Carson, Carter, Chilton, Claiborne, Clark of New York, Clark of Kentucky, Condict, Conner, Coulter, Creighton, Crockett, Culpeper, Daniel, Davenport of Virginia, Davis of Mass., Desha, Dwight, Earle, Findlay, Floyd of Virginia, Forward, Fry, Gilmer, Green, Haile, Hallock, Hall, Harvey, Haynes, Healy, Hobbie, Hodges, Hoffman, Ingersoll, Isaacks, Johnson, Johns, King, Kremer, Lecompte, Lea, Letcher, Little, Livingston, Long, Lyon, Marable, Martindale, Maxwell, McCoy, McHatton, McIntire, Merwin, Metcalfe, Mitchell of Pa., Mitchell of S. C., Mitchell of Tenn., Moore of Ky., Moore of Alabama, O'Brien, Pierson, Polk, Ripley, Roane, Russell, Sawyer, Shepperd, Smyth of Virginia, Sprigg, Stanberry, Stevenson of Pa., Sterigere, Stower, Swann, Swift, Sutherland, Thompson of Georgia, Trezvant, Tucker of N. J., Tucker of S. C., Turner, Varnum, Weems, Whittlesey, Williams, John J. Wood, Silas Wood, Wolf, Yancey—106.

“NAYS.—Messrs. Allen of Mass., Anderson of Pennsylvania, Archer, Baldwin, Barker, Barlow, Barnard, Barney, Bartley, Bates of Mass., Bates of Missouri, Beecher, Belden, Bryan, Bunner, Burges, Crowninshield, De Graff, Dickinson, Drayton, Everett, Floyd of Georgia, Fort, Gale, Garnsey, Garrow, Gorham, Gurley, Holmes, Hunt, Keese, Lawrence, Leffler, Locke, Lumpkin, Mallary, Markell, Martin, Marvin, Maynard, McDuffie, McLean, Mercer, Miner, Newton, Orr, Owen, Pearce, Plant, Ramsey, Reed, Sergeant, Sloane, Smith of Indiana, Stewart, Storrs, Strong, Taliaferro, Taylor, Thompson of New Jersey, Tracy, Vance, Verplanck, Vinton, Wales, Ward, Washington, Whipple, Wilde, Wilson of Pennsylvania, Woodcock, Wright of New York, Wright of Ohio—78.

So the bill was ordered to be engrossed for a third reading.

MAY, 1838.]

*Assault on the President's Secretary.*

[H. OF R.]

FRIDAY, May 16.

*Assault on the President's Secretary.*

Mr. McDUFFIE, from the Select Committee, to whom was referred the Message of the President of the United States, relative to an assault committed on his Private Secretary, made the following report:

"Immediately after their appointment, the committee proceeded to the investigation of the subject referred to them. They ascertained, from the letter of Mr. Russel Jarvis, referred to them by the House, and from the statement of Mr. John Adams, the private secretary of the President, that an assault was committed by the former upon the person of the latter, in the rotundo of the Capitol, immediately after he had delivered a message from the President to the House of Representatives, and while he was proceeding, with another message, from the President, to the Senate. At this stage of the proceeding, a preliminary question arose with the committee whether they should report to the House simply the fact that the assault had been committed, with a view to an examination at the bar of the House of the party implicated, and all the witnesses for and against him, or whether the committee should take upon themselves the responsibility of going into a full examination of the whole case, and of recommending, as the result of their judgment, upon all the facts and circumstances, the final course which they might deem it expedient for the House to pursue. The former mode of proceeding would have been, perhaps, the more strictly conformable to Parliamentary usage and precedent; but the unavoidable interference with the discharge of its ordinary legislative duties, which would have resulted from an examination before the House, constituted, in the opinion of the committee, so strong an objection to that course of proceeding, that they unanimously determined to examine all the witnesses, and to report the facts to the House, with their opinion upon them, having first obtained the consent of Mr. Jarvis that this course should be pursued, and having granted him the privilege of appearing by counsel. It is here proper that the committee should say a few words in explanation of the delay which has occurred in this examination. After some considerable progress had been made in it, Mr. Jarvis made an application to the committee for leave to examine by commission, certain persons in the city of Boston. The committee did not feel themselves warranted, under existing circumstances, to refuse this request. A commission was accordingly transmitted to take the examination by written interrogatories, which was not returned until very recently.

"The committee will now proceed to exhibit a brief summary of the evidence, the whole of which, in detail, is annexed to this report.

"The material fact, that Mr. Jarvis committed an assault upon the private secretary of the President, in the rotundo of the Capitol, immediately after he had delivered a message from the President to the House of Representatives, is clearly established. Indeed, it is distinctly admitted by Mr. Jarvis. It is also established to the satisfaction of the committee, that Mr. Jarvis knew that the private secretary of the President had delivered a message to the House of Representatives immediately before the

assault was committed. Mr. Jarvis, it appears, was in the House when the message was delivered, and immediately followed after Mr. Adams, as he retired from the House. There is some discrepancy in the testimony as to the nature of the assault; but, in the view taken by the committee, it is wholly immaterial to the question which grows out of the transaction, touching the dignity and privileges of the House.

"In the letter of Mr. Jarvis, he stated, as the provocation by which he had been prompted to commit the assault upon Mr. Adams, certain offensive and insulting language used by the latter, in the house of the President, at a levee, in the presence and hearing of the wife of Mr. Jarvis and other female friends and relatives, who attended the levee under his protection.

"Mr. Adams submitted a counter-statement, differing in several particulars from that contained in the letter of Mr. Jarvis, and several witnesses were therefore examined with a view of ascertaining the true character of the occurrences at the levee of the President. The committee believe it is not difficult to reconcile the apparent contradictions in the testimony of the several witnesses relative to this branch of the case. The material facts can be satisfactorily made out without involving any imputation upon the veracity of any of the witnesses. It is proved by those on both sides, and, indeed, by the admission of Mr. Adams, that he did use language calculated, if overheard, to insult Mr. Jarvis. It is also proved, to the satisfaction of the committee, that Mrs. Cordis, the mother of Mrs. Jarvis, was very near to Mr. Adams when he made use of the offensive language, and that she, as well as other persons of the party who accompanied Mr. Jarvis, heard it with some distinctness. It also appears that the ladies who accompanied Mr. Jarvis interpreted the language of Mr. Adams as an insult offered to the whole party, and it seems that Mr. Jarvis acted throughout the whole of the transaction under the same impression. On the contrary, it is stated by Mr. Adams and Mr. Stetson, that Mr. Adams did not use the offensive language relative to Mr. Jarvis, with a view of injuring the feelings of the ladies who accompanied him, nor, indeed, with a knowledge that it was overheard by them. The fact, however, appears to be indisputable, that so much of that language was heard by Mrs. Cordis and Mr. Dexter as induced the party, and particularly the female friends who accompanied Mr. Jarvis, to leave the President's House as soon as possible, under the idea that they had been insulted.

"Upon a view of all the circumstances, the committee are of the opinion that the assault committed by Mr. Jarvis upon the private Secretary of the President, whatever may have been the causes of provocation, was an act done in contempt of the authority and dignity of this House, involving not only a violation of its own peculiar privileges, but of the immunity which it is bound, upon every principle, to guaranty to the person selected by the President as the organ of his official communications to Congress. It is of the utmost importance that the official intercourse between the President and the Legislative department should not be liable to interruption. The proceedings of Congress could not be more effectually arrested by preventing the members of either House from going to the Hall of their deliberations than they might be by prevent-



ing the President from making official communications essentially connected with the legislation of the country.

"In the case under consideration, the Private Secretary, after having delivered a message from the President, was in the act of retiring, and almost within the very verge of this Hall, when the assault was committed upon him. The House was in session, and the person who committed the assault went immediately from the hall in which it was deliberating, where he was in the enjoyment of a privilege conceded to him in common with others who are engaged in reporting the proceedings of the House. If the Representatives of the people have not the power to punish an assault committed under these circumstances, then are they destitute of a power which belongs to the most inferior judicial tribunal in the country. The power of punishing for contempts is not peculiar to the common law of England. It belongs essentially to every judicial tribunal and every legislative body. The English law of contempts, as such, has not, surely, the slightest authority in the Supreme Court of the United States; yet the power of that court to vindicate its dignity and preserve its officers from outrage during its session, will scarcely be questioned. In like manner, though the parliamentary law of England, as such, can have no authority here; yet all the legislative bodies in the Union habitually act upon its rules.

"The power in question grows out of the great law of self-preservation. It is no doubt very liable to abuse, and ought always to be exercised with great moderation. In its very nature it is not susceptible either of precise definition or precise limitation. Each particular instance of its exercise must be adapted to the emergency which calls for it. While, therefore, the committee deem it a matter of great importance to maintain the existence of this power, as an essential means of vindicating the dignity and privileges of the House, they are clearly of the opinion that it ought never to be exercised, except in cases of strong necessity; and that the punishment inflicted under it ought never to be carried farther than shall be absolutely and imperiously required by the existing emergency.

"In the present case, though they think the conduct of Mr. Jarvis obnoxious to the censure of the House, yet they can hardly suppose that he was conscious at the time of committing the assault that he was offering a contempt to its authority. He disclaims, indeed, any such intention. And as the committee are aware that many persons, for whose opinions they have very great respect, entertain the belief that the assault in question was not a violation of any privilege of the House, they think they are required by the spirit of moderation and indulgence in which this power should always be exercised, to give Mr. Jarvis the benefit of the most favorable presumption, as to his views and intentions, touching the rights and privileges in question.

"They therefore recommend to the adoption of the House the following resolutions. It is proper, however, to remark, by way of explanation, that there was but a bare majority of the committee in favor of the first resolution, the minority entertaining the belief that the House possess no power touching the premises; and that there was but a bare majority of the committee in favor of the second resolution, the minority believing that it was expedient to vindicate the dignity of the House by inflicting some punishment for the violation of its privileges:

"Resolved, That the assault committed by Russel Jarvis on the person of John Adams, the private secretary of the President, in the rotundo of the Capitol, immediately after the said John Adams had delivered a message from the President to the House of Representatives, and while he was in the act of retiring from it, was a violation of privilege which merits the censure of this House.

"Resolved, That it is not expedient to have any further proceedings in this case."

Mr. P. P. BARBOUR, from the same committee, made the following report:

"The minority of the Select Committee, to which was referred the message of the President in relation to an assault committed by Russel Jarvis upon his private secretary, whilst they concur with the majority in the results which they report of the evidence, and also in the expression of their disapprobation of the assault, in reference to the time when, and the place where, it was committed, beg leave to state their decided and unqualified dissent from that resolution of the report which affirms the power of this House to punish the assault in question as being a breach of privilege and a contempt, and to present a condensed view of the reasons which have conducted them to this conclusion. This power, if it exist, must rest for its support upon that doctrine of privilege which is said to be established by the law and custom of Parliament, a doctrine which, in their estimation, is as incompatible with the genius of our people and the principles of our Government as it is dangerous to the individual rights of the citizen. In proof of this, they propose to take a brief review of its origin and progress, as also of its practical application, in that deliberative assembly, which is generally regarded by those who assert the power, as the source whence precedents are to be derived illustrative of the proper occasion for its exercise. It is said by a celebrated writer upon the subject that the law of Parliament is to be sought after by all, is unknown only to a few; that it is to be learned out of the rolls of Parliament and other records, and by precedents and continual experience; 'that the maxims upon which they proceed, together with the method of proceeding, rest entirely in the breast of Parliament itself, and are not defined and ascertained by any particular stated law'; and again, that the dignity and independence of the two houses are, in a great measure, preserved by keeping their privileges indefinite. Thus it appears, from the nature of this Parliamentary law and these Parliamentary privileges, that they are incompatible with the principles of our Government and against the dictates of justice; nothing can, without a solecism in language, be called a law, but some rule of action which is published to those who are to be affected by it, whilst it is seen that the law of Parliament, so misnamed, is locked up in their own bosoms; and nothing can be more unjust than to punish an individual for any offence against those privileges, the nature and character of which, being indefinite, are utterly unknown, and which only become known as particular cases occur, thus making the infliction of punishment the first evidence of the existence of the rule under which it is inflicted. The impropriety of such a course, which is apparent, upon the great principles of right and wrong, is strongly enforced by a reference to the 9th section of the 1st article of the constitution, which prohibits the passage of *ex post facto* laws. The reason for

Mar, 1838.]

*Assault on the President's Secretary.*

[H. OF R.]

this prohibition is, the injustice of punishing as a crime an act indifferent in itself at the time when it was committed; but, in the eye of reason, there is no real difference between punishing an act which, at the time of its commission, was not criminal, and punishing one which, at the time of its commission, was not known to be criminal; and, by a singular coincidence, such *ex post facto* laws, amongst the Romans, were called *Privilegia*, a most apt name for Parliamentary privileges. The minority of the committee, before quoting some examples of the application of this unknown law and indefinite privilege, will avail themselves of the sentiments of a very sagacious writer for the purpose of showing their danger and injustice. "Suppose (says he) a man had personally offended a majority of the individuals who happen to compose a jury that is to try him. But suppose twelve men to commence a prosecution against one, and that those very individuals are immediately, in the very rage of their resentment, enclosed to pass a verdict and determine of a punishment for an offence against themselves. Would this have the smallest semblance of justice? On the contrary, is it not the very design of law to take out of the hands of the offended the trial and punishment of the offenders, and put it into those of indifferent persons?"

"The same writer asks, why does not the House of Commons let the people know their privileges? Why are not those privileges established by law? When they think themselves offended, why do they not prosecute the offender in a legal and constitutional way, which would stop all reflection upon them? The king's causes are tried in the courts of justice, by judges and jury, who are indifferent persons; why is any individual; or any assembly of men whatever, to be judge, jury, and executioners, in their own cause? Again, he says, it may be affirmed that the people of England will never, while a spark of the fire of liberty remains, be reconciled to an assumed power in Representatives to imprison their constituents without trial by jury.

"It would be difficult to add to the force of the argument in these quotations. It has been said that the union of the legislative, executive, and judicial powers in the same body of men, is the very definition of tyranny. This union exists in all its force in the case of punishment for a legislative contempt; the same persons are the accusers, the triers, and the executioners; thus, not only violating the principle of immutable justice, that no man ought to be a judge of his cause, but performing the office of judge under feelings of excitement the most unpropitious to a calm and dispassionate investigation of the case. This general reasoning would of itself be sufficient to justify the declaration that the doctrine of privilege and punishment for Parliamentary contempt is of dangerous tendency, and incompatible with the principles of our Government; but if this conclusion be deducible from general reasoning, how greatly it is strengthened by reference to that series of precedents from which it is said that the law and custom of Parliament must be learned. From a few of the most prominent, which will now be quoted, it will be seen that, instead of the stream of justice flowing in a smooth and equable current, it has been thrown into constant agitation, sometimes by caprice, sometimes by the violence of angry excitement. A man named Cranfield was fined £500 each, to four members whom he had slandered. Lord Saville was committed to the tower for

refusing to name the person who had written a letter to him, which Parliament had thought treacherous. In 1647, an order was made for several members of the House to take some of the deputies of the Sergeant-at-Arms, and to break open doors and seize trunks and papers of one Captain Vernon.

"In 1654, a schoolmaster was examined for an Arian book; the book was burnt by the hands of the hangman. He was confined in Newgate and then banished to the Isle of Scilly. There is a case which is remarkable for the caprice which dictated the punishment: two persons were placed back to back upon a horse, and, with a label specifying the offence, made to ride in this manner round Charing Cross; and that, too, for arresting a member's servant, in violation of a privilege not now claimed. As, however, it may be objected to some of these precedents that they occurred in bad times, that is, during the period of the long Parliament, some more modern ones will now be quoted. In the case of Shirley *vs.* Fagg, in the 27th of Charles II., the House of Commons maintained that an appeal taken from the Court of Chancery to the House of Lords, by Shirley against Fagg, who was one of their members, was a breach of their privileges. In another case, which was an appeal taken by Crispe against Valmahoy, who was a member, they imprisoned the sergeants and barristers who had pleaded for Crispe, contrary to an order of the House, as for a breach of privilege. In the case of Admiral Griffith, a member, certain persons who had trespassed on his fisheries were found guilty of a breach of privilege, and were ordered to stand committed, and were afterwards discharged, after being reprimanded on their knees, paying the costs. And, even as late as about the year 1811, Sir Francis Burdett was committed to the Tower of London for a breach of privilege, in writing, or publishing, a libel, as it was deemed by the House of Commons. In times more remote, judges were put in custody of the Sergeant-at-Arms, and, in one instance, Judge Berkley was taken off his bench in Westminster Hall by the Usher of the Black Rod, to the great terror of his brethren; but the instances quoted of counsel being imprisoned for arguing a cause, and persons ordered to be committed for an alleged trespass, are strong illustrations of the position. That no man, or set of men, can be safely trusted with the unrestrained power of judging and punishing in their own case, it is not sufficient to say that the House will not follow such absurd precedents. Once let it be settled that it depends upon their discretion alone to decide whether there is a contempt or breach of privilege, and to decide both the kind and measure of punishment, without the power of any other tribunal to relieve, then the citizen's claim to liberty is not matter of right but of sufferance. Besides this view of the case, upon general principles, the minority of the committee are satisfied that the House does not possess the power in question, by force of various provisions of the constitution, to which they will now refer. In the 6th section of the 1st Article, the privileges of the members are precisely defined, and are made to consist in exemption from arrest, except in treason, &c., and from being questioned elsewhere for any speech in the House. These are privileges in the true meaning of that term; they are immunities or exemptions, and are personal to the members, and, as has been justly remarked, by the author of the Manual, they were probably defined with a view to arrest

the encroaching character of privilege, whose characteristic feature has been, that claims have been advanced from time to time, and repeated, till some example of their admission enabled them to build law on that example. It is believed that no one will contend, since this provision, that there are any other privileges; when, therefore, the question arises about the right of punishing for contempt, it is really a question, not of privilege, but of power. It will now be attempted briefly to inquire into the powers of the House; they are to be found in several sections of the first article; they are, 1st. To choose their own Speaker and other officers; 2dly. To originate all bills for raising revenue; 3dly. The sole power of impeachment; 4thly. To determine the rules of its own proceedings, punishing its members for disorderly behavior, and expelling a member, with the concurrence of two-thirds; 5thly. The power to judge of the elections, qualifications, and returns of its members. If the proposition be true, that the enumeration of two distinct personal privileges to the members be evidence that the framers of the constitution designed them to have no more, it would seem to follow, by parity of reason, that the enumeration of certain powers, as being given to the House, was evidence that the House should have no more powers. It is sometimes contended that, from the nature of things, the House must have certain inherent powers, and, amongst others, the power of protecting itself from insult. The provisions of the constitution above referred to seem to furnish an answer to this argument; for, if we are to impute to the House of Representatives any inherent power, what could more emphatically fall within that class than the following: a power to choose its own Speaker, without which it could not even be organized; a power to determine the elections, qualifications, &c., of its members, without which it could not know who were constitutionally elected; a power to punish its own members for disorderly behavior, without which there would be danger, at some period, of an utter prostration of all order. The guarded caution which thought it necessary to impart to the House power to give itself organization and action within itself, surely did not mean to leave the same House at liberty to range in the boundless field of wild and capricious precedent, in search of power to punish their fellow-citizens, whensoever and howsoever it pleased, without any chart or compass to guide its course, or limitation to restrain it, save only its own mere discretion, in acting on maxims and modes of proceeding, locked up in its own bosom, until applied in individual cases. The correctness of this idea may be strongly enforced by reference to the provision as to punishment in cases of impeachment; thus it is declared that punishment in cases of impeachment shall not extend further than to removal from office, and disqualification, &c. Now it would be strange that, in those cases in which the accusation was preferred by the House and tried by the Senate, the accusing and trying bodies being thus distinct, and in which, too, the Senators are required to be on oath, there should be a strict limitation of power, and yet, in the cases of contempt, in which the accusing and trying body are the same, and they are not upon oath for that purpose, there should be an unlimited power of punishment, both as to kind and amount.

"But there are other provisions of the constitution which bear upon this question. Thus, in the

second section of the third article, it is declared that the trial of all crimes, except in cases of impeachment, shall be by jury. Now, a crime has been defined to be the omission of something commanded, or the commission of something prohibited, by law. Unless the act in question shall correspond with one or the other branch of this definition, it is not the subject of punishment at all; and if it be, then it is a crime, and, as such, ought to be tried by a jury. But there is a provision in the fifth amendment of the constitution, which is deemed to be conclusive—it is this: that no man shall be deprived of life, liberty, or property, without due process of law. The phrase, due process of law, is believed, *ex vi termini*, to imply that it must be before a judicial court or magistrate; but all the judicial power of the United States, except that stated in the first article, is vested in the courts of the Union. An application will now be made of this reasoning. The House of Commons consider it equally a breach of privilege, for which they punish, to assault or slander a member. Now, is it supposed that, if one of our members were slandered or libelled in a newspaper, we should not have the power of punishing, (if we exercised that power we should cease to legislate,) and why? Because the first amendment prohibits the passage of any law abridging the freedom of speech or of the press; so, when the fifth amendment prohibits the deprivation of life, liberty, or property, but by due course of law, it follows that, as commitment would be a privation of liberty, that cannot be done without due course of law; that is, in a regular proceeding before a judicial tribunal. It may be useful to pursue this idea further. It has been seen that, in one case, the Commons banished a man to the Isle of Scilly; if, without trial by due course of law, the House of Representatives can commit, in like manner may they banish; and, carrying the process one step further, and the last, they might, if ever they should be wild enough, take the life of a citizen; for life and liberty are only guarded in the same words; and if they can take the last by their own judgment, in their own case, so they might take the first. This provision in the fifth amendment is substantially the same with one in Magna Charta. It is true that, in the great case of Sir Francis Burdett against Mr. Abbott, the Speaker of the House of Commons, when this provision of Magna Charta was urged in argument, the Court attempted to parry its force by declaring that the law and custom of Parliament are a part of the law of the land, in its large sense, and that the expressions, according to the law of the land, and by due process of law, are, in effect, the same. The first answer to this is, that when the House of Commons imprisoned the counsel for appearing in an appeal at their bar, against a member of the Commons, the Lords voted this imprisonment to be a transcendent invasion on the right and liberty of the subject, and against Magna Charta, the Petition of right, and many other laws, which have provided that no freeman shall be imprisoned or otherwise restrained of his liberty, but by due process of law. Again: Those maxims which are locked up in the bosom of Parliament, unknown to the people, and proclaimed only as particular occasions occur, can with no propriety be considered as a part of the law of the land, the characteristics of which are, in every point, the contrast of this law and custom of Parliament. The law of the land, instead of being locked up in the bosom of the legislator, is made known to the people; and, in-

MAY, 1838.]

*Land Claims in Florida.*

[H. OF R.]

stead of consisting of a set of hasty fragments or sentences, pronounced as the cases occur, it consists of general rules of action, not spending their force in individual cases, but applying to the whole community. But there is yet another answer to this idea, which is deemed conclusive: If it were for argument sake admitted that this law of Parliament was a part of the law of the land in England, it would be part of the common law. Now, it is not pretended that the common law belongs to the United States, as such; nay, the contrary has been solemnly adjudged, particularly in reference to the penal part of that system. This power is sometimes attempted to be supported by comparing it to that exercised by courts and State Legislatures; as it regards the courts of the States, although it is an anomaly, it is claimed upon the ground just discussed, as a part of the common law, which, it has been seen, does not belong to the United States, as such. As it regards the State Legislatures, they are the depositories of all the power of the people, which are not otherwise granted or prohibited to them; whilst, as respects Congress, it is apparent, from the constitution, that it was intended to define the particular powers which together they should possess as the Federal Legislature, and also those powers which should belong to each House separately. The example of the United States courts is against the argument; for Congress have, by express enactment, given those courts power to fine and imprison for contempt, which would have been wholly nugatory if they possessed it before.

"If it should be asked whether the two Houses of Congress are to sit at the mercy of every intruder who chooses to insult them without power to punish him, the answer is a ready one. In the first place, there is no reasonable probability of such a violent breach of decorum being wantonly committed; but as it is a possible, though extreme, case, it will be met by showing a very simple and obvious remedy. The chambers in which the two houses sit are under their exclusive control. They are authorized to establish the rules of their proceedings, and to appoint their officers; it is competent, then, for them to declare by their rules who shall and who shall not be admitted within their chambers. It is equally within their power to put out any person who may conduct himself indecorously; accordingly, by one of the rules of the House of Representatives, it is provided that, in case of any disturbance or disorderly conduct in the galleries or lobby, the Speaker or Chairman of the Committee of the Whole shall have power to order the same to be cleared. For that purpose we are furnished with officers, such as a sergeant-at-arms, doorkeeper, &c., whose duty it is to execute the warrants and orders of the House, and to preserve order when necessary. This, then, is a plain and adequate remedy for the removal of such interruption as obstructs the progress of business; as to any thing else, let the offending party be prosecuted in the judicial tribunals; or it is competent to Congress to make legislative provision if it were thought necessary.

"The same sagacious writer from whom quotations have already been made, holds this language: 'We now question the doctrine of a power in the Commons of imprisoning for any thing but what stops proceedings of the House, and is done in the House.' Such is the doubt expressed, even in relation to the omnipotent British Parliament. The minority of the committee hold the true principle, in reference to the two Houses

of Congress to be this: They may remove any disorder or disturbance within their respective chambers, so as to prevent any obstruction to the progress of their business, but they have not the power of imprisoning for contempt. But if they had this power, still it could not be extended to embrace any case beyond their own chambers; for if it were, where would be the limits? The court, in the case of *Anderson vs. Dunn*, give the answer: they say that they know no bounds to the process of this House for contempt but those of the United States. This principle they cannot admit to be correct. Tremendous would be that power which could drag before it any citizen, from Maine to Florida, and punish him for a contempt, of which the sole criterion would be the discretion of the power punishing. They would further state that, to maintain the power in this case would be to assume a stronger ground than that even claimed by courts; for, suppose that a witness had been summoned to attend a court, and after having deposed, should be assaulted upon the court ground, but so as not to disturb the court, and not in relation to his evidence; nay, suppose that a judge himself, after the adjournment of his court, should be assaulted, not in relation to his official conduct, but upon some personal quarrel, would it be contended that the process of contempt would lie in either of these cases? It is believed that it would not; if so, the power in question cannot be maintained, even by analogy to that of courts.

"The minority have felt that they owed it to themselves to state the grounds of their opinion upon a great question of constitutional law, which, to-day, is the case of *Russel Jarvis*, but which may be the case of any citizen in the Union.

"Under the influence of these considerations, they recommend the following resolution:

"Resolved, That it is not competent to the House of Representatives to punish *Russel Jarvis* for the assault upon the private secretary of the President, as for a contempt to the House."

[Both of the above reports were ordered to lie upon the table.]

#### *Land Claims in Florida.*

A bill from the Senate, supplementary to the several acts for the settlement of Private Land Claims in Florida, was read, and considered in Committee of the Whole.

Mr. WHITE said, it had been his duty, some years since, when he held the office of Commissioner, under the Florida Treaty, to devote considerable attention to the various laws of the United States providing for the adjustment of private land claims, as well as to the validity of Spanish land titles. He felt it due to himself, and to the House, to make some explanation, more in detail than he had done when the bill was under consideration before. This bill, he said, was reported in the Senate, and received the sanction of the committee of public and private land claims—was amended on the motion of two members of the Judiciary Committee, justly distinguished for their legal learning, and finally passed that body, after a discussion of three days. That enlightened branch of the National Legislature, and

those eminent lawyers, supposed that the interest and rights of the United States were cautiously guarded, and amply protected, by its provisions. Two bills, less oppressive to the claimants, at the two last sessions of Congress, passed the House of Representatives. I could not, therefore, anticipate any objection to this bill, when, by the indulgence of the House, it was called up before; and time was not then afforded to reply to the arguments and insinuations that the Government was not sufficiently protected, in the mode of trial provided by the sections which referred a particular class of claims to the Judiciary for adjudication. Sir, I never have asked, nor wished any thing but a fair and impartial examination and decision of those claims. I have never sought any thing but an honest fulfilment of the stipulations of the Treaty between Spain and the United States. The only interest I have, or feel, is that of a Representative, solicitous for the honor and good faith of this Government, and the security of the rights of property of the inhabitants transferred to us. I appeal to the members of the committees, who have been charged with the consideration of these claims, to say whether I have not always urged such a bill as would exclude all fraudulent titles, and provide for the confirmation of those founded on equity, and embraced by the treaty. If this bill does more for the Spanish grantees than we are morally and legally bound to do, let it be so modified as to accomplish the object.

The eighth article of the treaty in substance stipulates that the United States shall confirm to the claimants their titles to the same extent that Spain would have ratified them, if the provinces had not been ceded to us. The obligation imposed by this treaty cannot be denied or evaded. The *quo modo* of executing it is left to the wisdom of this Government. It must be by legislation, or a tribunal must be organized to decide what is public and what private property. To make the decision final and conclusive, an appeal must be given to the Supreme Court. A legislative act to divert a right secured by treaty would be unconstitutional. Any adjudication which an act of Congress would declare final, without an appeal to the Supreme Court, would be as unjust as it would be ineffectual. Whenever the United States, or any one claiming under them, takes possession, the claimant can assert his right in court, and have his title judicially investigated. To decide these claims, Boards of Commissioners have been organized, with limited powers, and all titles to the extent of 3,500 acres have been confirmed, which were decided by them to be valid. That there are valid grants to a larger quantity of land, no one can deny. That the obligation to ratify large as well as small grants is imposed on the United States, is a proposition too obvious to be questioned. The grants, submitted to the Judiciary by this bill, have been, with a few exceptions, favorably reported by the Commissioners. Six

years have elapsed since the surrender of the Floridas, and nothing has been done.

These titles, as I before had occasion to remark, depend on the local ordinances of a foreign Government, whose civil jurisprudence in its origin and present conformation, is entirely different from our own, and whose land system is *sui generis*. Can this House or its committees understand these titles? Sir, we might as well dismiss all our Auditors, Comptrollers, and Judges, and undertake to give opinions *seriatim* upon all the accounts arising out of the various and complex relations of this Government. Congress would be truly the *Aula Regis* of the nation; we should have a consolidation of all the divisions of power, and the idea of checks in the different departments would be exploded. What figure would a committee of Congress make in the decision of land titles in Kentucky under the compact with Virginia, and the numerous statutes of both States? They must, of course, find themselves more embarrassed in relation to titles, the origin, progress, and completion of which are entirely different from our own. I consider that a bad title has almost as good a chance as a good one. Since I have had the honor of a seat here, I have seen favorable reports on claims neither supported by law nor equity, and unfavorable upon those sustained by both. The United States have confirmed nearly a million of acres of land held under British titles in the States of Louisiana and Mississippi, to which I think it can be demonstrated that there is no color of title. These grants, if they had been referred to the Supreme Court, would have been all rejected. There are titles of the same description to at least a million of acres in the Territory I represent. The commissioners of West Florida made such a report upon them that no one who ever read it has advocated these claims. They were endeavored to be supported by flimsy and unsatisfactory expositions of national law, wholly inapplicable to them. Notwithstanding these errors, we are told we ought to go on in the same course, because it is unbecoming our dignity to be sued! Sir, I think it more consonant with our dignity to discharge our treaty of obligation, and save the public domain by a speedy, impartial decision, than to display this affectation of sovereign consequence when just claimants are postponed in their rights, and the public lands wasted by improvident legislation. Sir, I do not concur either in the fact or the inference from it. This bill does not authorize a suit against the State; it only proposes the means of ascertaining the validity of a grant in a court of the United States. The settlement of every account at the Treasury is as much a suit against the United States as this bill authorizes. The accounting officers are required to adjust and pay the claims against the Government, provided for by law. This bill refers claims under a treaty, which is the supreme law, to a different tribunal for settlement. In

MAY, 1828.]

*Land Claims in Florida.*

[H. OF R.]

the one case, auditors, comptrollers, and secretaries, pronounce, and in the other, judges make the decisions. There is no distinction in reason or in fact—a Government must act through the agency of its officers, judicial or ministerial. The gentleman from Louisiana (Mr. GURLEY) has argued that no act of legislation is necessary to enable the claimants to institute suits for the trial of their titles. Without stopping to inquire how far an action against a mere trespasser, without pretence of right, would bind the United States, it appears to me, if his argument be correct, it is more forcible than any I could employ, why this bill should pass. The United States to be bound by an *ex parte* judicial decision, against a nominal defendant, to the amount of a million of acres of land! This would be strange, indeed, sir. How much better is it to have a fair issue taken by the Government and the claimant; the one contending it is public, the other private property; before a tribunal competent to decide, and both represented by counsel.

If the grant is not such as this Government stipulated to confirm under the treaty, it is a part of the public domain ceded by it. The Government will neither survey and sell, nor permit the claimants to do so. If a sale were made by them, the title would of course be subject to litigation before the judicial tribunals of the country. The United States would sell to a claimant, who would calculate the issue of a protracted lawsuit, and give a corresponding diminution in price, and they would be subject to the imputation of having been faithless in the execution of their treaty, in not having provided for a decision before they asserted the right of disposing of the land.

It may not be unprofitable to take a review of the history of our legislation on this subject. The treaty by which Louisiana was acquired, imposed on our Government the duty of ratifying all claims derived from the French and Spanish Governments. To fulfil this stipulation, this Government organized a local commission, with limited powers, and confirmed their reports on small grants. The larger concessions and grants were referred to Congress. The Secretary of the Treasury made a report assuming one league square as the limit of the power of a Governor, and Congress confirmed to that extent. It was very soon ascertained that this was an arbitrary limit fixed upon by him, and unsupported by any ordinance of either Government, unless it was an antiquated and exploded one of the French Government, under which few of the titles were held. In fact, it was ascertained that the Secretary did not, and could not understand the subject, from the very limited means of information before him. The claims over this arbitrary quantity have remained unadjusted for twenty years, with the exception of a few which occasionally find favor in this House, by the favorable report of a committee, who construe civil law titles by common law

rules, and recommend a confirmation. The remainder have suffered all the anguish of hope deferred, and worn out the greater part of their lives in unproductive petitions and unavailing supplication. The claimants have petitioned, the Legislature has memorialized, the Governor has denounced the injustice, and the President has called on Congress to execute in good faith our treaties. Notwithstanding this formidable array, the claims of Louisiana remain unadjusted. If this simple question is put to any honest man, if this claim be good, ought it not to be confirmed? he would answer yes. If it be bad, ought it not to be rejected? the answer would be in the affirmative. Now, sir, who is so competent to decide whether these claims are good or bad, valid or invalid, as a court learned in the laws under which it was derived and consummated, familiar from long practice with such questions, and having access to the records and books necessary to give the information? But, say some gentlemen, we cannot trust questions of such magnitude to the courts. Sir, this intimation is as derogatory to our national character, as it is unjust to that pure and enlightened department of our Government. The judiciary, the depository of the power that protects life, liberty, and property, the constitutional arbiter of the powers of the co-ordinate departments, not to be trusted with a decision of *meum* and *tuum* for a few thousand acres of land! The idea is unworthy of serious refutation. The suggestion is not only disreputable and absurd, but it is ineffectual as a pretence for opposing this bill. Suppose the United States refuse to confirm or to pass a law authorizing the trial of such a claim as that of the Baron de Bastrop, in Louisiana, or John Forbes & Co. in Florida. So long as they do not act, the claimants are kept off, or rather I should say, cannot find a place on which to put their lever. If the United States survey or sell ten, twenty, or fifty thousand acres of this land, is there any power in this Government to prevent those claimants from bringing suits to try the validity of their titles against the purchasers under the United States? There is not. It is only by a failure to act that those claimants are prejudiced.

A suit is then instituted against a purchaser, who does not care for the result, because, having the patent of the Government, he has a claim for indemnity if he loses. A collusion might take place between the claimants and this purchaser, by which the interest of the Government might be compromised. It is manifest, from this view of the subject, that the United States make a great sacrifice by selling, when there is an unadjusted title to the same land. When the sale is effected, a suit, under most unpropitious circumstances, will be carried on against their purchaser, by which they are bound. How much better is it, whether we consult policy, principle, or good faith, to have the investigation fairly made, the right judicially determined, before we place a

country and claimants in such a situation. But, to proceed with the history of our legislation. The Florida treaty contains a stipulation which is not to be found in any other; it provides for a confirmation to the same extent that the Spanish Government would have ratified the titles. In relation to these, we have also organized a Board of Commissioners with limited powers, and required them to report their opinions, upon all over their jurisdiction, to Congress. This has been done in part. When I came here, two years ago, I asked a confirmation of all claims which had received the favorable recommendation of the Commissioners. This was denied. There was no precedent. I then solicited an examination and confirmation of such as should be approved. This could not be done for want of time. I then petitioned a reference of them to the courts. This was agreed to in the House of Representatives, and refused in the Senate. I then endeavored to find out what would meet the views of the Senate, and learned that they preferred a great commission to sit here at Washington, under our supervision, to decide all the claims. I agreed, so far as my constituents were concerned, to submit their rights to this Board. The subject was discussed, various objections started, "Chimeras and gorgons dire" conjured up. The commission would not do, but the courts would. The Judiciary, that could not be trusted last year, can be at this time, and what they resolved last year in the Senate, has been reversed this, and they send this bill. We are now called upon to reject it; although we passed it two years ago. If I may be permitted to borrow an illustration from a fable we have all read—it may be play to some, but death to my constituents. It is not so much a matter of importance how the decisions are made, as it is that they shall be made. The general effect is the same upon the country. If the land is decreed to belong to the United States, the Government will sell it; if it belong to individual grantees, they will sell or cultivate it. So long as it is suspended in this way, it is like the miser's treasure, useless to himself and the world. I did not rise to go into this debate so fully. I have not time to go into it at length, at this late period of the session. I entreat the friends of the bill not to discuss it further. The House, I am sure, understand it fully. I will only express my surprise that the gentleman from Louisiana opposes this bill with so much zeal. I hold in my hand a memorial of the Legislature of his State, I believe unanimously adopted, urging the necessity of a reference of their claims to the Judiciary.

[Here Mr. WHITE read two extracts from the memorial.]

The diversity of opinion between that gentleman and the Legislature of his State may arise from the fact, that there are in his district a number of these unsettled claims, covered by occupants, who have neither titles from the

grantees nor the United States. The longer they keep out the claimants, the stronger their right of prescription becomes, and neither the Government nor the grantees derive any benefit from the land.

I know that some of my constituents have lands within that gentleman's district, which must come to trial at some day. It is in vain that hopes are entertained that the time is to be procrastinated much longer. It is better now to have a decision, by which all uncertainty will be removed, and permanent improvements be begun. The gentleman is opposed to a decision by the courts, but has done me the honor to say he would be willing to submit the claims to my decision. I thank him for the flattering estimate he has been pleased to place upon my character and competency; but if I have, in the office I filled under this Government, or in any other capacity, been so fortunate as to propitiate the good opinion of this House, or any portion of it, I beg to make that character useful to my constituents by a solemn assurance to it that this bill contains every protection for the interests of the Government, and is the only satisfactory mode in which these claims can be settled. I will only make one further remark, which is personal to myself. It has been insinuated out of doors, that I am largely interested in the claims to be adjudicated in the courts under this act, if it should become a law. Whether this has been invented here, or sent in insidious letters to members of this House, I do not know; I here pronounce, in my place, the insinuation or charge wholly destitute of foundation. I am neither directly nor indirectly, privately nor professionally, interested in a single claim. If I were interested in every one, it is no objection to the bill; we ask an impartial trial, and not a confirmation. Whether I shall or shall not be counsel for any of these claimants, is a matter for them and myself, and certainly has no bearing on the intrinsic merits of the bill, which I trust will pass.

The bill was then ordered to be engrossed for a third reading.

[Mr. GURLEY opposed the bill in the form in which it was ordered to be engrossed, and earnestly endeavored to have it amended in such a manner as to leave the settlement of the claims to Congress, and not to the Judiciary, but without success.]

MONDAY, May 19.

#### *Retrenchment.*

Mr. WICKLIFFE, from the committee on the subject of a retrenchment in the expenditures of the Government, reported, in part, a joint resolution, in relation to the manner of executing the printing ordered by either House of Congress; which was twice read.

In support of it, he made a few remarks, and exhibited a printed document to show the sav-



Mar, 1828.]

*Relief to Railroads.*

[H. OF R.]

ing that would result to the United States from having it printed in a more compact form. He referred to the inconvenience of searching through a number of volumes of Executive communications to find a particular report from one of the Departments.

Mr. STRONG, of New York, observing that this resolution proposes effecting almost a total change in the present mode of executing the public printing, and wishing further time for considering it, moved to lay it upon the table.

The motion prevailed, and the resolution was laid upon the table accordingly.

*Franking Privilege to Charles Carroll, of Carrollton.*

On motion of Mr. McDUFFIE, the House took up the joint resolution granting to Charles Carroll, of Carrollton, sole surviving signer of the Declaration of Independence, the privilege of receiving and franking letters and packages, and ordered the same to a third reading; and it was subsequently read a third time, passed, and sent to the Senate for concurrence.

*Delaware Breakwater.*

On motion of Mr. SUTHERLAND, the House then went into Committee of the Whole on the state of the Union, and took up the bill from the Senate making appropriations to commence the erection of a breakwater in Delaware Bay.

Mr. SUTHERLAND declared his readiness to give any necessary explanations, when the bill should come into the House.

Mr. GILMER called for the reading of the report of the committee in this case.

Mr. SERGEANT, in reply to this call, said, that the report, documents, and, in general, all the information on the subject of this important national work, had been collected and published in a pamphlet, intended to be placed in the hands of all the members. He had hoped that a copy had been furnished to the member from Georgia, (Mr. GILMER.) If that was not the case he (Mr. S.) would give him his copy, where he would find the report. He submitted to him (Mr. GILMER) whether, under these circumstances, he would occupy the time of the committee in having the report read?

Mr. GILMER thereupon withdrew his call for the reading of the report, and the bill was laid aside.

*Canal Land Grant to Ohio.*

The committee, on motion of Mr. ISAACKS, took up the bill granting a quantity of land to the State of Ohio, to aid in the construction of the canals authorized by laws of that State.

Mr. VINTON moved to amend the bill by striking out "500,000 acres," and inserting "1,200,000," and defended the amendment by referring to similar grants made to the State of Indiana. The amendment was negatived.

On motion of Mr. McLEAN, the committee then proceeded to consider the bill to aid the

State of Ohio in extending the Miami Canal from Dayton to Lake Erie.

Mr. MERCER urged the propriety of passing this bill. It was then laid aside.

*Land Grant to Alabama.*

The committee then proceeded to consider the bill granting certain relinquished and unappropriated lands to the State of Alabama, for the purpose of improving the navigation of the Tennessee, Coosa, Cahawba, and Black Warrior Rivers.

Mr. MERCER moved the following amendment, which he had been directed to offer by the Committee of Roads and Canals:

To strike out the word "and" from the last line of the 6th section, and add the following clause:

"And be calculated for the use of steamboats, according to such plan of construction as the United States Engineers, appointed to survey and report thereon, may recommend, and the President of the United States approve, provided that such plan shall embrace, if practicable, a connection of the navigation of Elk River with the said improvements."

Mr. GILMER inquired what relief had been granted to settlers on vacant lands in Alabama.

Mr. MERCER answered the inquiry, but reminded the gentleman from Georgia that this bill proposed to give them no additional relief, and only referred to what had been done, as being necessary to a description of the lands referred to. A steamboat navigation existed both above and below the Muscle Shoals. The canal necessary to avoid that obstruction would be thirty miles in length, and all the committee wished to secure was, that it should be of such dimensions as would admit the steamboat navigation to continue.

The amendment was agreed to, and the bill laid aside.

*Relief to Railroads.*

The committee took up the bill "to admit iron and machinery for railroads free of duty."

Mr. MILLER having no idea that the House could ever pass this bill, with a view to save the time that might be wasted in debate, moved to strike out the enacting clause of the bill.

Mr. BARNEY opposed the motion with great warmth, attributing it, in part, at least, to a feeling of jealousy existing in Philadelphia, in relation to the rapid rise of Baltimore.

Mr. SERGEANT replied, disclaiming all such motives and feelings on the part of Philadelphia; stated the various railroads already commenced in Pennsylvania, and inferred the interests which that State had in the bill, but stated the universal sentiment prevalent in that State, as to the ability of the ironmasters to furnish whatever would be required by the railroad companies. He referred, by way of illustration, to what had been done in making cast-iron pipes, for the conveyance of water to Philadelphia. Speaking of the allusion which



had been made to the Breakwater, he said he saw no reason why these two things should be brought, as it were, into opposition with each other. There was no natural hostility between them. Each must stand upon its own merits. As to the Breakwater, he calculated upon the support of a great majority of the House, and, especially, of the gentleman from Baltimore. Baltimore was almost as much interested in it as Philadelphia. It was a work completely national, to all intents and purposes. There was not a port in the United States, from New Orleans to the most northeasterly port in the Union, not a point on the seaboard, that was not interested in it. The interior, too, universally, had an interest in it. Scarcely a spot could be named, that might not be shown to be concerned in the protection to be afforded by the proposed harbor. Why, then, should it be connected with any other question?

Mr. DRAYTON advocated the bill at considerable length, and replied to the arguments of Mr. SERGEANT. The ironmasters had themselves admitted their incapacity to supply the iron required, and the continual importations from abroad were evidence of the fact. Of the 90,000 tons annually consumed, only 80,000 were furnished by our own factories. The construction of this railroad would be a great benefit to the ironmasters of Pennsylvania, and the remission of the duty would injure nobody.

Mr. STEWART yielded to no one in zeal for the Baltimore and Ohio Railroad; he considered it not a local, but a national object, uniting the Atlantic and Western States. He was willing to aid the company to the full extent of the national interest involved in its accomplishment. He would vote for a direct appropriation of double the amount of the duties on iron. But, to this bill, he was decidedly opposed; it was at war with all his principles; it was, in effect, offering a bounty on the importation of foreign iron; it was a virtual repeal of the tariff, just passed, as to iron. He suggested an amendment, to pay the same bounty on the use of American iron. This would leave the American and foreign manufacturers on equal footing; as it now stood, it was granting a bounty to the foreigner, to the prejudice of the American, which he could never sanction by his vote. He made some remarks in reply to Mr. DRAYTON.

Mr. BURGESS defended the bill, contending that no duty laid on the importation could materially benefit the ironmasters in the interior. Of that which was made in Pennsylvania, only one-third went to Philadelphia, and two-thirds of it to the West, which was a proof that foreign iron did not control the price. He denied that either Pennsylvania or Maryland would suffer any injury, while all who were concerned in railroads received an immediate benefit.

On motion of Mr. GORHAM, the committee then rose, and reported the bills, and they

were severally ordered to be engrossed for a third reading.

#### *Delaware Breakwater.*

On the question of ordering the bill making appropriations for the Breakwater, to its third reading,

Mr. WILLIAMS demanded the yeas and nays, and they were ordered, and stood—

YEAS.—Messrs. Addams, Anderson of Maine, Anderson of Pa., Armstrong, Baldwin, Barker, Barlow, Barney, Bartlett, Bartley, Bates of Massachusetts, Beecher, Blake, Brent, Bryan, Burges, Butman, Carson, Condict, Coulter, Creighton, Crowninshield, Culpeper, Davenport of Ohio, Dickinson, Dorsey, Everett, Findlay, Forward, Fry, Gale, Gorham, Gurley, Hunt, Ingersoll, Isaacs, Johns, Keese, Kerr, King, Lawrence, Leffler, Little, Livingston, Mallary, McDuffie, McIntire, McKean, McLean, Mercer, Miller, Miner, Mitchell of Pa., Moore of Kentucky, Moore of Alabama, Newton, O'Brien, Orr, Owen, Pearce, Piereson, Plant, Ramsey, Reed, Richardson, Ripley, Russell, Sergeant, Shepperd, Sloane, Smith of Indiana, Sprague, Stanberry, Stevenson of Pa., Sterigere, Strong, Swann, Swift, Sutherland, Taylor, Thompson of New Jersey, Tracy, Tucker of New Jersey, Vance, Varnum, Vinton, Washington, Whipple, Whittlesey, Wilson of Pa., Woodcock, Wolf, Wright of Ohio, Yancey—95.

NAYS.—Messrs. Alexander, Allen of Va., Archer, Philip P. Barbour, Barringer, Bassett, Brown, Cambreleng, Carter, Chilton, Claiborne, Clark of New York, Clark of Kentucky, Conner, Crockett, Davenport of Virginia, Desha, Earll, Floyd of Georgia, Fort, Garrow, Gilmer, Hall, Hamilton, Haynes, Healy, Hobbie, Hoffman, Lecompte, Lea, Long, Lumpkin, Lyon, Marable, Markell, Martindale, Martin, Marvin, Maxwell, McCoy, McHatten, Metcalfe, Mitchell of South Carolina, Polk, Rives, Roane, Sawyer, Smith of Virginia, Trezvant, Tucker of South Carolina, Turner, Verplanck, Ward, Wilde, Williams, John J. Wood, Silas Wood, Wright of New York—58.

#### *Canal Land Grant to Ohio.*

The bill authorizing the continuation of the Dayton Canal having come into the House,

Mr. McLEAN made a full explanation of the circumstances on which it was founded.

Mr. S. WOOD inquired how far this canal run through the public lands.

Mr. McLEAN replied, between 70 and 80 miles.

Mr. BURGESS supported the bill, on the principle that the State of Ohio having greatly benefited the public lands, by commencing this canal, it was fair that the United States should render her an equivalent, to aid her in its completion.

The bill was ordered to its third reading, by yeas 95, nays 60.

Mr. McCOR moved an adjournment, but the motion was negatived—ayes 78, noes 81.

#### *Further Canal Land Grant to Ohio.*

The question being on ordering the bill granting lands to Ohio, to aid in constructing the canals, ordered by the State,

MAY, 1838.]

Ohio Canal.

[H. OF R.]

Mr. BASSETT objected to it, and asked its friends if they had no conscience. He thought the House had done quite enough for one day. They had just given away 1,400,000 acres of land to the State of Ohio, and here was another bill for as much more.

Mr. STANBERRY explained the object of the bill, which was to aid the State of Ohio in refunding the capital which she had borrowed for the construction of the two canals in that State; one from Portland to Lake Erie, by way of the Licking and Portage summits, and the other from Cincinnati to Lake Erie, through Dayton. He referred to the pressure of direct taxes, laid by the State, to carry on this great improvement; he stated that they were, on that account, beginning to grow unpopular, and expressed his apprehension, should this bill fail, that one of them might be suspended the next season.

Mr. ISAACS said, that the grant of land, in both these bills, taken together, was less than that made last Congress to the State of Indiana.

Mr. VINTON went into a full statement of the condition of the Ohio lands, and insisted on the propriety of the amendment he had offered in committee.

To obviate a difficulty started by Mr. SPRAGUE, Mr. MERRICK moved the following proviso:

"Provided, That, in the lands hereby granted, no lands shall be comprehended, which have been reserved for the use of the United States, as alternate sections in the grants hitherto made, or which may be made, during the present session of Congress, of land within the said State, for roads and canals:" which was agreed to.

Mr. VANCE briefly advocated the bill, stating that Ohio had paid into the public Treasury many millions of dollars, and the United States ought not to be scrupulous in granting her a few thousand acres of land to aid a great national improvement.

Mr. MOORE, of Alabama, moved the previous question, which being sustained, put, and carried.

Mr. LUMPKIN, on the main question, asked the yeas and nays, and being taken, they stood as follows:

YEAS.—Messrs. Baldwin, John S. Barbour, Barlow, Barney, Bartley, Beecher, Bell, Blake, Brent, Cambreleng, Chilton, Condict, Coulter, Creighton, Daniel, Davenport of Ohio, Desha, Dorsey, Duncan, Everett, Findlay, Gorham, Gurley, Hunt, Isaacs, Johns, Lawrence, Lecompte, Lea, Leflier, Letcher, Little, Lyon, Mallary, Marable, Martindale, McDuffie, McHatton, McKean, McKee, McLean, Mercer, Metcalf, Miller, Mitchell of Pa., Mitchell of Tennessee, Moore of Ky., Moore of Alabama, Newton, Orr, Owen, Pierson, Polk, Ramsey, Richardson, Russell, Sergeant, Shepperd, Sloane, Smith of Indiana, Stanberry, Swann, Sutherland, Taylor, Vance, Vinton, Washington, Whipple, Whittlesey, Wolf, Wright of Ohio, Yancey—72.

NAYS.—Messrs. Addams, Alexander, Allen of Va., Anderson of Maine, Armstrong, Bailey, P. P. Bar-

bour, Barker, Barnard, Barringer, Bartlett, Bassett, Belden, Blair, Brown, Bryan, Buckner, Burges, Chase, Claiborne, Clark of New York, Clark of Ky., Conner, Culpeper, Davenport of Virginia, Davis of Mass., Dickinson, Drayton, Earll, Floyd of Georgia, Fort, Forward, Fry, Gilmer, Hall, Harvey, Healy, Hobbie, Hoffman, Keese, Kremer, Locke, Long, Lumpkin, Markell, Martin, Marvin, McCoy, McIntire, Mitchell of S. C., O'Brien, Rives, Roane, Sawyer, Smyth of Virginia, Sprague, Stevenson of Pa., Sterigere, Swift, Taliaferro, Thompson of New Jersey, Thompson of Georgia, Tracy, Trezvant, Tucker of New Jersey, Tucker of South Carolina, Verplanck, Ward, Wilde, Williams, Wilson of Pa., Wingate, J. J. Wood, S. Wood, Woodcock, Wright of New York—75.

Mr. STANBERRY, referring to the fact, that the bill just rejected had, in Committee of the Whole, been considered before the bill for the Dayton Canal, suggested, that the order had been changed in the House by some management of one of the officers of the House.\*

Mr. STANBERRY was called to order, but insisted on inquiring whether this had taken place from management, or by accident only. He said he was induced to make the inquiry, because the result agreed so exactly with the views of a certain party in this House.

Mr. STANBERRY was here again called to order;

When, on motion of Mr. LITTLE, the House adjourned.

TUESDAY, May 20.

Ohio Canal.

After the reading of the Journal of the preceding day, Mr. CLARK, of New York, rose and said:

Mr. Speaker: On the question of engrossing the bill granting lands to the State of Ohio, to aid in the completion of one of her canals, (that from Cleveland to the Ohio River,) I voted in the negative. I intend, before resuming my seat, to move a reconsideration of the question. It is due to the friends of this important work, that they should have a fair hearing; that its merits should be fairly discussed; that the question should be met openly and manfully; and, if the bill is to be defeated, that they should know on what grounds; whether it is to fall a sacrifice to party management, or be rejected on principle. When the vote was taken yesterday, the House was not usually full, and I have yielded to the request of the friends of the bill, to move the reconsideration, to enable gentlemen who were absent to record their votes. Though, myself, opposed to the bill, for reasons other than those of policy and expediency, I feel no dispo-

\* Mr Stanberry, before the subject was done with, fully exonerated, in open session, the officers of the House from the imputation of having transposed the bills, though the fact of the transposition remained as stated, and the consequent loss, in the House, of the bill that lost its place on the calendar, and which Mr. Stanberry particularly favored.

sition to insist on the accidental advantage, which the lean majority of three gives, to the opponents of the measure. I wish the will of the majority of this House, when fairly expressed, to take effect; and, whether that will may accord or conflict with my own, I shall cheerfully submit to its mandate, and lend my aid to its expression.

The House will recollect, that the bill authorizing the donation of lands for the benefit of the Dayton Canal, passed to be engrossed by a majority of thirty-five. It is not my purpose to speak of the comparative merits of the two canals, any farther than to show the inconsistency of gentlemen who advocated the one and opposed the other. Sir, I did not admire the manner in which this bill was yesterday defeated. The bill for the benefit of the Dayton Canal, one of less importance than the Cleveland Canal, and one, I am informed, of doubtful practicability, owing to a supposed insufficient supply of water on the summit level, passed in silence; all was calm and tranquil; but, the moment this bill was called up—a bill depending on the same principles as the former, but dispensing the public bounty to a more meritorious object—all the political elements were in agitation, and the waves of party were dashing it to destruction. Such anxiety, such shuffling, such bolting, such changing of votes, I have at no time witnessed. The confusion has not been equalled since the tumultuous and disastrous retreat of the army of Xerxes, after the battle of Salamis; certainly not since the memorable "races of Bladensburg."

Sir, I concede the right to gentlemen to change their votes at pleasure, neither do I, in this case, impeach the motives of any one. Those gentlemen who voted for one of these bills, and against the other, may have had good and weighty reasons for so doing, which they did not think proper to communicate to the House. But it so happens, that some fourteen or sixteen gentlemen who thus changed their votes, belong to the same political side of the House; and some eight or ten who happened to leave their places, immediately preceding the vote, belong to the same side. Sir, the gentleman from Ohio, who moved this bill, (Mr. STANBERRY,) has good reason to exclaim, "Save me from my" Internal Improvement "friends, I can take care of my enemies." Why did the gentleman from Ohio, not now in his place, (Mr. VINTON,) deem it necessary to attack his colleague (Mr. STANBERRY) in relation to a statement made by the latter? Here we see two gentlemen, professing to be embarked in the same cause, and anxious to attain the same object, at odds about trifles, and cavilling about straws. The mover of this bill, in the course of his remarks to the House, had stated in round numbers, that about eight millions of acres of land, in the State of Ohio, now belonged to the United States. Here, then, was presented to the gentleman (Mr. VINTON) a fine opportunity to show his stern regard to

truth, and passionate fondness for the Cleveland Canal! He made a speech; gave a history of the Ohio lands; how many acres the United States originally owned; how many sold; and, by the complex rule of subtraction, ascertained, that the Government still owns seven and a half millions of acres, and not the enormous quantity of eight millions, as asserted by his colleague, (Mr. STANBERRY.) And why all this? Was it for the purpose of furnishing a veil to throw over the votes of gentlemen who had made up their minds to go against the bill? Or was it merely for the purpose of putting the House in possession of this important information? As the gentleman voted for the bill, I am bound, in charity, to believe the former. I impeach not his motives, but I must be permitted to remark, that his course was illy calculated to propitiate a friendly feeling for the bill.

The gentleman, sir, was not content with this manifestation of his devotion to the interests of this canal. He took the bill to his fond embrace, and gave it a warm fraternal hug. (I thought it looked blue in the face at the time.) In the abundance of his zeal, in the overflowing of his kindness, he proposed an amendment to increase the donation from one-half million to twelve hundred thousand acres of land. Was this intended as an evidence of his friendship for the bill, or was it to excite a spirit of distrust and alarm? Disclaiming all intention to impugn the motives of the gentleman, I must again crave the indulgence of the House, while I am permitted to say, that the effect of such a proposition was well calculated to defeat the bill.

Then, sir, follows a farce, got up between two friends of the measure, brethren of the same political household—an amicable warfare, a mock battle, is fought between these co-workers in the cause of internal improvement. The gentleman from Ohio, on my left, (Mr. VANCE,) somewhat cavalierly, and in ironic mood, said, in substance, that a gift, by the United States to Ohio, of a few hundred thousand acres of land, might well be made—it was of no consequence—a mere trifle! "O no," says the gentleman from Vermont, (Mr. MALLARY,) "though I am friendly to the canal, I can never consent to vote away the public domain as a gift. I support the bill on the ground that the Government has already received an equivalent in the enhanced value of its lands." Thus ends the friendly strife. By this time the victim is prepared for the immolation; the ceremony is performed, and the bill is handed over to its executioners. Sir, if it was right to pass the first bill, the second deserved a better destiny. Whatever merits belong to one are common to both—they involve the same principles, and should go hand in hand to their fate.

Mr. CLARK, of New York, concluded his remarks by moving a reconsideration of yesterday's vote.

MAR, 1828.]

*Ohio Canal.*

[H. OF R.]

Mr. BLAKE rose and said, that he was not a little astonished at the remarks which had just fallen from the gentleman from New York. Sir, said he, I was in the House yesterday, when the bill was under consideration, to which the gentleman has alluded—the bill granting lands to the State of Ohio, to aid in making canals authorized by that State. I was in the House just before the vote was taken, and at the time the vote was taken, and I saw nothing of the confusion and excitement which the gentleman states to have then occurred. The gentleman's remarks are calculated to induce a belief that the bill was rejected in consequence of an understanding among some of the members of this House, who are avowedly friendly to the policy of internal improvements; but surely such cannot be the fact, for there never was a transaction in any legislative body, more susceptible of explanation, than the vote thus given. There is not, on this occasion, the slightest necessity for implicating the character and honor of this House. As the gentleman's remarks have a tendency to make an improper impression, not only here, but on the public mind elsewhere—for it is well known they will not be confined to these walls—I will state what I consider to be the reason which influenced many of the members, in the majority of the House, to vote as they did. I had examined both bills on this subject before I was called on to vote—both the bill rejected, and the bill to aid the State of Ohio in extending the Miami Canal from Dayton to Lake Erie; for I then felt, and still feel, a lively interest in behalf of both. The bill rejected is not, as the gentleman has stated, based upon the same principles of the other bill: for the other bill grants land to Ohio, along the route of the canal, reserving alternate sections to the General Government; but the former proposes a grant of land generally, without confining it to the route, and without any alternate reservation. And in consequence of this difference, which comparatively precluded an accruing benefit to the General Government, many of those in the majority of the House, I presume, sir, deemed it proper that they should vote against it. Indeed, such was the reason assigned to me by some of the members.

Sir, in the State of Ohio, there are at present two canals contemplated, one crossing the State from the Scioto to Cleveland, and the other from Cincinnati, by Dayton and the Miami, to Lake Erie. The grant of lands made to the State which I have the honor, in part, to represent, covers a portion of the territory within the chartered limits of Ohio, and the bill granting lands to construct the Dayton Canal, as it is called, and which was ordered to a third reading yesterday, authorized the State of Indiana to convey that portion to the State of Ohio on such terms as they may agree on as being mutually proper. It was, therefore, important to the two States that this latter bill should have passed, as it prevents the

difficulties which might have arisen, and what is at least equally important, it will produce a unity of interest. The gentleman has, however, stated that this contemplated canal route by Dayton and the Miami to Lake Erie, as he is informed, is impracticable; that the scheme is a visionary one. But I must say to that gentleman that this is not the fact: for the country has been thoroughly examined by skilful engineers, and they have given the fullest assurances that it is practicable, and that, too, with great facility. The statement of the gentleman, in this particular, might, in some degree, prejudice the character of this important work, which is deeply interesting to Indiana and Illinois, and it was not only proper, but indispensable, that I should rebut the statement with the fact.

[Mr. BLAKE having observed that Mr. CLARK had alluded to the fact of the Ohio bills being taken up in a different order in the House, from what was observed in committee,

Mr. MOORE, of Alabama, called him to order, denying that Mr. CLARK had made any such remark, and appealing to the Chair whether the gentleman from Indiana was in order.

The SPEAKER replied that he had heard no such remark from the gentleman from New York, and that, therefore, any thing purporting to be in reply to it was out of order.

Mr. CLARK disclaimed having made the remark imputed to him.

Mr. BLAKE said, that, if that was the case, he must have greatly misunderstood the gentleman. He had certainly thought that such a remark had been made by the gentleman; and he was persuaded that the misplacing of the bills must have happened, if at all, through accident only.

Here Mr. MOORE again called Mr. BLAKE to order, and the SPEAKER said that the bills had not been misplaced; that the one had no preference over the other, both being bills from the Committee of the Whole on the state of the Union; and that the Clerk had done nothing improper, in relation to them, of which he had any knowledge.]

Mr. STANBERRY said, that he rose for the purpose of making reparation to the wounded feelings of the Clerk of the House. He had not been correctly understood when he addressed the House yesterday; and if he had been permitted to finish his remarks, that officer would have found that he had no reason to be offended. It did, indeed, appear to him very extraordinary, that the bills should not have been taken up in the House in the same order as they had been considered in committee, and he had known, perfectly well, that it would be death and destruction to the bill, in which he felt most interested, to have the other first considered. He had seen, however, a feeling manifested on the occasion which he did not anticipate. All his colleagues, he was persuaded, must have known the importance of that bill to the State of Ohio, and must have

had its passage greatly at heart. They, no doubt, felt so still, and he expected them to come out and aid him on the present occasion. He repeated that the accident appeared to him most extraordinary, but he was confident the Clerk had nothing to do in the matter; and all he had wished, was, that an investigation might take place, to see if there had been any collusion, and management, in producing the result which had actually happened.

Mr. VANCE said he believed there was no man of any party who did not know that he was in favor of both the bills, as tending to promote interests in which Ohio was deeply concerned; but if one of them was to be preferred before the other, he felt entirely satisfied that the preference ought to be given to the bill which did pass—all the gentleman's knowledge of the geography of Ohio to the contrary notwithstanding. The Dayton Canal runs from 80 to 90 miles through the public lands, whereas, the Scioto Canal did not run within 60 miles of the lands of the United States. The gentleman from New York had signified a doubt whether there would be any water for the Dayton Canal. He would take the liberty to tell that gentleman that the region through which that canal runs was the best watered portion of the State of Ohio, and he would state another fact, which was, that the Scioto Canal would have been originally located in that vicinity, had not the population of the State required it to be run through a more thickly settled portion of the country. Besides, the bill for the Dayton Canal did not, in effect, give the State a single dollar, because the alternate sections reserved to the United States were, by its provisions, set at just double the ordinary price, whereas, the other bill allows the State to go into these reserved sections, and select lands in one section of Ohio for the benefit of another section of the same State. He would add one word as to the reflections cast out by the gentleman from New York, (Mr. CLARK,) of a want of sincerity on the part of himself and a portion of his colleagues.

[The SPEAKER here interposed, and said that he had heard no such accusation uttered by the gentleman from New York.]

Mr. VANCE replied, and reminded the Speaker that the gentleman had said, that when a colleague of his (Mr. VINTON) got hold of the bill, he grasped it till he made it blue in the face; and, if that gentleman meant to accuse him, or such of his colleagues as acted with him, of acting a double part, he repelled the insinuation as calumnious. Sincerer friends to the interests of internal improvements were nowhere to be found.

The debate was further continued by Mr. ISACKS, who advocated the reconsideration, apologized for not having more fully explained the facts to which this bill related when it was yesterday before the committee, and pledged himself to satisfy the House of its importance and utility.

Mr. VINTON commenced a statement in explanation of the remark he had made yesterday, the purport of which was to show that he had proposed nothing in the House in relation to this bill, which he had not previously proposed in the Committee on the Public Lands: but the Speaker pronounced any reference to the proceedings in committee, not to be in order.

Mr. V. then disavowed any purpose of hostility to the bill, in the amendment which he had offered, and referred to the fact, that the amendment had been sustained by the very gentlemen who now seem to think that it made the bill "blue in the face."

Mr. MERZER now delivered a speech of some extent, which went to show that there was no necessary collision between the two bills. He attributed the fate of the second bill to the effect of a statement made yesterday by his colleague, (Mr. BASSETT,) founded, as he understood, upon a calculation of a gentleman from Pennsylvania, (Mr. MITCHELL,) that the first bill granted in effect not less than 1,400,000 acres of land to the State of Ohio.

Mr. M. then went into a calculation to show that this was a very great mistake indeed, and that the bill granted, in reality, less than 800,000. The canal would cost the State of Ohio 800,000 dollars, and the grant was therefore a good bargain. In relation to the second bill, he had voted with much less information, but had been led to support it chiefly from the consideration, that, out of the forty million acres in the State of Ohio, the United States owned eight millions, which was one-fifth of the whole State. The General Government had, therefore, a large interest in whatever promoted the value of the land in that part of the country.

Mr. MOORE, of Alabama, now moved the previous question, but withdrew his motion at the request of

Mr. BRECHER, who went at large into an explanation of the circumstances and prospects of the State of Ohio, in relation to the Scioto Canal. He described, very minutely, the course of that canal, enumerating the various tracts of land through which it passed, and drew from this statement an argument to show that the United States, as a landholder, had a great and manifest interest in promoting the success of that canal. He disclaimed all personal and party feelings in the course he pursued, enlarged upon the benefits that would result from this line of communication, expressed his confident hope that it would be successfully completed, and hoped that the bill would pass, as its operations would give a quietus to a few noisy demagogues, who were opposing the design with a view to their own aggrandizement.

Mr. MOORE again moved the previous question, and the motion was sustained by the House—ayes 80, noes 64, and carried.

The main question recurring on the reconsideration of the vote which refused to order the bill to be engrossed for a third reading, the House resolved to reconsider—yeas 104, nays 69.

MAY, 1828.]

*Assault on the President's Secretary.*

[H. OF R.]

Mr. WARD now moved to re-commit the bill with instructions.

Mr. MOORE, of Alabama, moved the previous question. It was sustained—yeas 102, nays 78.

The main question being then put on ordering the bill to a third reading, it was decided in the negative, by yeas 86, nays 87.

So the bill was again rejected.

#### *Alabama Land Bill.*

The bill granting land to Alabama, to aid in a canal round the Muscle Shoals, having been reported by the Committee of the Whole, and the question being on ordering it to a third reading.

Mr. MITCHELL, of Tennessee, went into an extended explanation of the geographical situation of the country, both above and below the Muscle Shoals, stated the advantages that would be derived from the contemplated improvement, and warmly advocated the passage of the bill, whether considered in reference to the military, commercial or political effects that would result from it.

The bill was also advocated by Messrs. McDUFFIE, ISAACS, and MOORE of Alabama, and ordered to its third reading, by yeas 94, nays 61.

THURSDAY, May 22.

#### *Slave Trade.*

An engrossed bill to abolish the Agency of the United States on the coast of Africa, and to provide other means for carrying into effect the laws prohibiting the slave trade, and for other purposes, was read the third time, and the title having been amended, was passed.

FRIDAY, May 23.

#### *Charles Carroll of Carrollton.*

The SPEAKER informed the House that, in execution of the order of yesterday, he had addressed the following letter to CHARLES CARROLL of Carrollton:

WASHINGTON, May 22d, 1828.

Sir: I have the honor to communicate to you, by direction of the House of Representatives, the enclosed joint resolution of both Houses of Congress, extending to you, as the only surviving signer of the Declaration of Independence, the privilege of franking. You will be pleased, sir, to receive it as a token of the distinguished respect and veneration which Congress entertain towards an early and devoted friend to liberty, and one who stood pre-eminently forward, in the purest and noblest band of patriots that the world has ever seen.

I cannot resist the gratification which this opportunity affords, of publicly testifying the strong sentiments of esteem and veneration which, individually, I entertain for your character and services, and expressing an earnest hope, that the evening of your long life may be as peaceful and happy as it has been active and useful.

I have the honor to be, sir, your obedient and faithful servant,

A. STEVENSON,  
Speaker of the House of Reps. of the U. S.

To CHARLES CARROLL of Carrollton, Esq., Maryland  
Vol. X.—18

#### *Assault on the President's Secretary.*

Mr. McDUFFIE gave notice that he would, to-morrow, move the consideration of the resolution reported by him from the Select Committee on the subject of an assault committed by Russel Jarvis on the person of the President's private Secretary.

Mr. GORHAM gave notice that he should move, by way of amendment to that report, the following:

*Resolved*, That Russel Jarvis, having been guilty of a breach of the privileges of this House, the Speaker do forthwith issue his warrant, directed to the Sergeant-at-arms, to take said Jarvis into custody, and bring him to the bar of the House, and that said Jarvis be there reprimanded by the Speaker for said offence, and be then discharged.

*Resolved*, That the Speaker be requested to withhold from said Jarvis, during this and the next session of Congress, the courtesy usually extended to Editors of Newspapers, of an admission to the floor of this House.

Mr. GORHAM asked that this paper might be printed.

Mr. P. P. BAEBOUR wished to know whether it was the understanding that this subject should be discussed during the present session? Because, if so, he should press to have it taken up to-day, being under the most urgent necessity of leaving the city to-morrow.

Mr. OLARK, of N. Y., said, that he had considered this as a small matter, and as being got up only for political purposes; he repeated, that it was a small affair from first to last—that it had evidently been got up for political effect—to produce a certain effect upon the people, and therefore—

[Here Mr. OLARK was called to order by Mr. BRENT on the ground that it was not in order now to discuss the subject, or thus to speak of the motives and intentions of a Committee of the House.]

The SPEAKER said he had not understood the gentleman as meaning to reflect upon the committee.

Mr. CAMBERLENG inquired whether, after the hour of morning business had expired, any resolution or report could be received unless by consent of the House?

The SPEAKER replied, that the gentleman from Massachusetts had expressly asked the permission of the House to have the paper printed. This could only be done by consent, and it was for the House to determine whether they would consent to the request or not.

Mr. CAMBERLENG farther supported his objection, and insisted that the paper could not be received.

Mr. OLARK again rose, and inquired whether, as this paper appeared to have for its object no public good, but merely to produce political excitement—

[Here Mr. OLARK was called to order by Mr. VINTON. The gentleman was imputing motives of an improper kind to the gentleman from Massachusetts, (Mr. GORHAM).]

The **SPEAKER** said it was certainly out of order to do so; but he had understood the gentleman from New York as applying his remarks only to what would be the effect of this paper.

Mr. **CLARK** said he had not imputed any improper motives to the member from Massachusetts, or to the committee, but had spoken only of what he thought would be the probable effect of printing this report, and inquired whether the House ought to lend its aid in producing any such effect. They had, already, upon the table, two able reports from the majority and minority of the Select Committee, which reports differed essentially on principle.

The **SPEAKER** here reminded Mr. **CLARK**, that it was not in order to discuss reports, which were not now before the House, they having been ordered to be printed, and not yet having been laid upon the tables of members.

Mr. **COULTER** said, that though he doubted the propriety of receiving such a paper as that just read, in that stage of the business in which it had been presented, yet, this having been presented (as it seemed to be understood) by the tacit consent of the House, and the paper having been received, he hoped that it would be printed, and that all opposition to the printing of it would be withdrawn; for, he would ask, if the House should refuse to order the printing of this paper, what favorable effect would ensue to the cause of those gentlemen who opposed the printing? The refusal to print it would not conceal the matter from the country, as it would immediately go into the public prints; nor would it prevent the presentation of it at the proper time. He repeated his hope, that the paper having been received, it would be allowed to be printed.

[Mr. **CAMBRELENG** here interrupted Mr. **COULTER**, to observe, that the paper had not yet been received, and he hoped it would not be.]

The **SPEAKER** said, that the gentleman from Massachusetts having obtained the floor by consent of the House, had asked that the paper should be received and printed, but this was at the discretion of the House.

Mr. **COULTER** replied, that, in that aspect of the subject, he should have no greater objection to receive this paper, than he should to the receiving of any other paper in the like circumstances; but he still thought that this was not a proper stage of the business for the House to receive it at all.

The question was divided accordingly, and recurring first on the receiving of the paper offered by Mr. **GORHAM**,

The **SPEAKER** explained that it had been the practice of the House to permit such requests to be made, and frequently to comply with them, by ordering the papers to be printed in anticipation, before the subject to which it related was actually before the House.

Mr. **COULTER** said, that he had before objected to the receiving of this paper, not on account of its particular tenor, but upon general prin-

ciples. He hoped it would come before the House in the proper time, and that the subject would be decided upon with calmness and deliberation. He should be as willing that this paper should be printed as any other, presented under like circumstances; and, as it appeared, from the statement of the Chair, that other papers have been, in like manner, allowed to be printed, he saw no reason why this should not take the same course. On the subject to which it related, he had indeed a most decided opinion. He was as hostile to the purport of the paper itself, as any one possibly could be; but he hoped, nevertheless, that it would be received and printed.

Mr. **GORHAM** said he had been surprised at the objection urged by the gentleman from New York, (Mr. **CLARK**,) and at the avowed grounds of it. He had himself been in the minority of the Select Committee who had reported on this matter, which minority had reported on principles adverse to those avowed by the majority, and had concluded their report by an expression of their opinion that some punishment ought to be inflicted by the House, for the breach of its privileges. Yet now, when that minority wished to carry out the principles they had avowed in their report, by proposing a punishment as light as possible, that gentleman had had the hardihood to rise in his place and openly charge them with improper motives.

The **SPEAKER** here interposed, and said that he had not understood the gentleman from New York as intending to impugn the motives of the committee, or any member of it, but as merely stating the effect which he apprehended would follow from receiving and printing this paper.

Mr. **GORHAM** replied, that the gentleman had certainly said it was got up with a view to political effect; but such was not the fact. He had introduced it to the House, with the express purpose of showing the views of a portion of that committee, as to the course which ought to be pursued in this case. It was the only mode left to them of giving publicity to these views; because, being in a minority, they appeared to assent to what was done by a majority of the committee. But, Mr. G. said, he could never consent to have an impression go abroad, that he assented to the doctrines in the report. As to what should finally be done, he was entirely indifferent. It was not so much with a view to the action of the House, that he wished to present this amendment, as for the purpose of letting the sentiments of a portion of that committee be publicly known, and, as the chairman of the committee had given notice that he should call up the subject to-morrow, Mr. G. felt bound also to give notice, that, in that case, he should offer the proposed amendment.

Mr. **P. P. BARBOUR** had no manner of objection to the printing of this paper, other than that which grew out of the peculiar personal situation which he had already stated to the

MAY, 1828.]

*Assault on the President's Secretary.*

[H. OF R.]

House. The resolution which the gentleman had read, and which he intended to offer by way of amendment to the report of the committee, was one which had relation, not to fact, but merely to opinion: for, as to the facts of this case, there was no dispute. The majority and the minority of the committee agreed upon the facts, and differed only as to the principle involved. As, therefore, the paper gave no additional information to the House, as to facts, he saw no necessity of ordering it to be printed. It would, of course, find its way into the public prints, and would thus have all the publicity gentlemen could wish. In the meanwhile, he earnestly desired that the House, if it went into this subject at all, would take it up to-day; because, standing toward it in the relation he did, he felt as if he ought to be present when it was discussed; and yet it would put him to the most extreme degree of inconvenience to be obliged to remain in his seat another day. Mr. B. said he knew that the personal inconvenience of any individual formed but a slight reason for any determination of the House, yet, he could not but urge the consideration of this subject to-day. Should the printing of this paper be refused, he would move to postpone the orders of the day, with a view of going at once into the discussion of the report of the committee.

Mr. MEEBEE said his colleague had given what he considered as the strongest of reasons, why the printing of this paper should be ordered: for he had given notice, that, if it were not, he should move the postponement of all the business on the table of the House, for the purpose of going into a discussion of the principles involved in the report and counter report from the Select Committee. Now the House had but three juridical days remaining, and he could not believe, that the rule, which confined these days to the consideration of matters originating in one House, and to be acted on in the other, ever contemplated the spending of them in such a discussion as must necessarily grow out of that report. If it must be discussed, it would be best to reserve the subject until Monday, when this House could not, by the rules, act on any subject requiring the action of the other branch, and devote to-day and to-morrow to the consideration of Senate bills. As to the merits of the present question, he had never known an instance in which the minority of a committee had been refused the privilege of making known their views, in as open a manner as the majority; and he referred to the celebrated case of the Missouri question, as an instance in point. If this privilege were granted to one minority, he did not see how it could be withheld from another. But he declared his determination to vote against taking up the subject to-day.

Mr. HAMILTON said he was obliged to his friend from Virginia, for the suggestion which he had made, because he hoped that it would have some effect in tranquillizing an excite-

ment, which he was sorry to witness. He was far from considering this subject as one of such vast importance as some gentlemen seemed to think. He thought the debate which had taken place, was something like a storm in a teapot. It had been the practice of the House—a very bad practice he thought—to receive the report of a minority of a committee, when they desired to present one, and to order it to be printed with that of the majority: but, in the present case, there seemed to be a sort of *sub modo* minority; the committee seemed to be moving in triangles. The House had one report from the majority of the committee, and another from the minority, and now it was presented with a new report, from what seemed to be a subdivision of that minority. He considered it a bad practice to receive the reports of minorities at all, but such had been the practice of the House on former occasions, and he saw no reason why it should be departed from in this particular instance. There seemed to him, on the contrary, to be a good reason why this whole subject should be postponed until Monday; and it was, that the members of the House had not had an opportunity of examining the reports of the committee: it had been ordered to be printed, but had not yet come from the office. He was, therefore, not informed upon the subject, and, therefore, not prepared to act upon it. He hoped, in the meanwhile, that the House would extend to the gentleman from Massachusetts the usual courtesy of allowing his amendment to be printed beforehand.

Mr. WEEMS said, that there appeared, in this case, to be a triune committee, a majority, a minority, and a sub-minority. As the House had received and printed reports from the majority and minority, he did not see why it should refuse to print the present paper, which he viewed in the light of a third report.

Mr. STERIGEE moved to lay the motion of the gentleman from Massachusetts, for the receiving of this paper, upon the table; decided by yeas 27, nays 145.

Mr. CLARK, of New York, opposed the reception of the paper offered by Mr. GORHAM, on the ground that no offence had been committed against the dignity of this House, nor any breach of privilege. The gentleman from South Carolina (Mr. HAMILTON) had very properly reprobated the practice of receiving reports and protests from the minorities of committees; and would he now advocate extending this practice, by printing and receiving this report?

The SPEAKER said it was not a report from any committee, but merely a paper, which a member of the House asked leave to have printed; and it had been the practice of the House, on many occasions, to comply with requests of a similar kind.

Mr. CLARK said, it was, in substance, a report. The House had received one report from the majority of that committee, and another from the minority; now they were asked to receive a third report. He believed the case



was without a parallel, unless it was to be received under the pretext of being an amendment. It was, to be sure, in parliamentary strictness, an amendment; but it was, in substance, a report. He was confident the gentleman from South Carolina must, on reflection, perceive that this would be extending a practice, which he professed to disapprove. Mr. C. disclaimed any reference to the personal motives of gentlemen, and insisted that he had spoken only of what would be the effect of the paper. He had no wish to stifle it, nor would such be the effect of refusing to print it. It would still go to the community with that refusal of the House, and gentlemen were at liberty to make what they could of it. The ground on which he opposed the reception of the paper was, that this House had no jurisdiction in the case to which it referred.

Mr. MOORE, of Alabama, now demanded the previous question, and the call was sustained and carried.

Mr. WRIGHT, of New York, now demanded that the main question should be divided, and put, first, on receiving the paper, and then upon printing it.

It was divided accordingly; and the question recurring on receiving the paper offered by Mr. GORHAM, it was decided as follows: yeas 122, nays 47.

The paper was then ordered to be printed.

SATURDAY, May 24.

#### *The Retrenchment Report.*

Mr. HAMILTON, from the Committee on Retrenchment, laid on the table of the House a mass of documents, which had accumulated in the course of the investigations by that committee.

Mr. HAMILTON said, that, in reporting the papers and documents from the Committee on Retrenchment, to be placed on the files of the House, on which their recent report was grounded, he was directed by that committee to say, that, from the want of time, they had not been able, with sufficient consideration, to prepare and mature the bills and resolutions necessary to carry their several recommendations into effect, even if the House could have considered them: but as they had acted with perfect good faith to the House on the subject confided to them, and under an honest conviction that the reforms they had proposed were essential to a wise economy and strict accountability in the public expenditures, the majority of that committee had determined, on an early day of the next session, to move a recommitment of the report, with a view of reorganizing the committee, and reporting the bills, after full deliberation on their several provisions. And to this the House might consider such of the majority as pledged, who might be destined to return at the next session.

Mr. CAMBRELENG said that, in the report from the minority of that committee certain matters were stated as facts, which were not

facts. That report had never been submitted to the committee; and he could not but say that he considered it as having been introduced into the House in an unparliamentary manner. Mr. C. here quoted from the report the following passages:

"In conclusion, the minority of the committee would remark, that, from the manner in which the report of the majority was prepared, it has been impossible for the minority to examine its contents and present their observations upon them, as fully as they could have wished, or as the importance of many of the topics would require. The different subjects of investigation were, at an early period, referred to sub-committees, of each of which, one of the minority was a member. Towards the close of their labors, sketches of their reports (generally brief) were exhibited by the chairman of the sub-committees, to the individual forming the minority. In most cases, these sketches were in the hands of that individual but a few days, and in one case, at least, but a few hours. These sketches being then returned to the chairman of the committee, were, by him, made the basis of a general report, in which, however, new matters were introduced, of which the minority, having no previous notice of them, will be found to have prepared no explanation. It has, of course, been impossible for them to explain what they did not know to have been objected to. This is now mentioned, not as matter of complaint, but as matter of fact, relative to the mode in which the minority of the committee have discharged their duty."

Now, sir, said Mr. C., I rose merely to say, as one of the members who was appointed to prepare one of these sub-reports, (here called "sketches,") that they were in the possession of the gentlemen for a considerable time before they were adopted in committee. The greater part of the matter they contained, was, indeed, submitted to them ten days before the committee reported. If, afterwards, any thing was added, it was not such, either in quantity or importance, as would warrant the assertion contained in the minority's report. My own sub-report was certainly presented to one, at least, of the minority in time for it to be examined; and I am bound to say, on behalf of the committee, that the minority were, throughout the whole investigation, indulged in every form in which it was possible; they had all the opportunity that could reasonably be desired to examine the report before it was brought into the House. At last, when that report was finally prepared, and submitted to the committee, I moved that it should, on the same day, be reported to the House, which I was induced to do, from the lateness of the session, and with a desire that it might come into the House in time to be acted upon.

Mr. SERGEANT said, that, as one of the minority of that committee, he must take the liberty of saying that they did not consider the member from New York (Mr. CAMBRELENG) as having any authority to declare to them what it was right for them to say in their report, and what it was not. He did not know

Mar, 1838.]

*Ohio Canals.*

[H. OF R.]

on what ground that member held the right to tell other members how to do their duty. Every gentleman must, on that point, judge and act for himself, and do his duty with such ability as he might possess, be it greater or less. But, in reply to the gentleman he would say, that the statement which the gentleman had quoted from the report of the minority, had not been made with any unkind intention toward the majority of the committee, and he begged to say, generally, that the minority had made no complaint of the conduct of the committee, nor did they feel that they had any cause to do so. If they had, they would have stated it, and made the complaint. All who were present during the whole of the time when the committee held its last meeting, (the gentleman from New York had been present only part of the time,) must know what the course of the minority had been. The papers from the other members, which the gentleman calls sub-reports, were put into the hands of the chairman, at a very late period, and he had been obliged to work very hard to digest them into a report in the time he did so. All the members of the committee gave him credit for his industry, and for the motive which prompted it, viz., a desire to get the report into the House in time to have it acted upon with due deliberation. He did intend, as all the committee knew, to have presented it sooner, but found that to be impracticable. When the report was brought into the committee, the gentleman from New York (Mr. CAMBRELENG) moved that it should be reported to the House on that day. A member of the committee, from Massachusetts, (Mr. EVERETT,) moved to defer its presentation till the day following, on the ground that the minority had not an opportunity of preparing a reply to any new matter it might contain; but his motion was overruled. The minority, thus situated, felt it incumbent on them to state the fact, as an excuse for omitting (if they should have omitted) to reply to all the matters in the report of the majority. The two portions of the committee differed in their views, from the beginning to the end of their proceedings, but all in good humor, and with mutual respect. The minority never meant to say, or insinuate, that they had any complaint against the rest of the committee: for, he repeated, that, if they had so felt, they would have made the complaint—as he would now do, if he thought he had any cause, which he did not.

SIX O'CLOCK, P. M.

*Thanks to the Speaker.*

Mr. WRIGHT, of New York, moved the following resolution.

*Resolved*, That the thanks of this House be presented to the honorable ANDREW STEVENSON, Speaker, for the dignity, impartiality, promptitude, and ability, with which he has discharged the duties of the Chair, during the present session.

The SPEAKER now retired, and called Mr. MOORE, of Alabama, to the chair.

Mr. ARMSTRONG rose, and was prefacing a motion to lay the resolution upon the table with some remarks, disclaiming all personal want of respect toward the Speaker, when he was called to order by Mr. CAMBRELENG.

Mr. ARMSTRONG made his motion, and was again proceeding with some remarks, when he was pronounced to be out of order.

The CHAIRMAN now reminded Mr. ARMSTRONG that he might insist on his motion to lay the resolution on the table.

Mr. A. being then out of his seat, did not respond to the Chair; and the vote was about to be taken; when

Mr. ARMSTRONG rose, and commenced some prefatory remarks of the same general tenor as before.

He was again called to order by Mr. CAMBRELENG.

Many members now rose at once to address the Chair, but Mr. VINTON succeeded in obtaining the floor, contended that the former motion of Mr. ARMSTRONG, not having been withdrawn, was still in course before the House and did not need to be formally renewed.

The CHAIRMAN now explained; recapitulated the several stages of the debate, and decided that it would be in order for Mr. ARMSTRONG to renew his motion. He having renewed it, accordingly, Mr. WILDE demanded the yeas and nays, which, being taken, stood—yeas 51, nays 101.

The main question was taken, by yeas 111, nays 28.

So the resolution of thanks to the Speaker was adopted.

*Ohio Canals.*

The House proceeded to the consideration of the amendments of the Senate to the bill to aid the State of Ohio in extending the Miami Canal from Dayton to Lake Erie.

The amendments consist of two parts. The first is to grant to the State of Ohio 500,000 acres of land to aid in making the Scioto, or Grand Canal, in that State, in addition to the land granted by the bill itself, and is the same in substance as the bill rejected by the House some days ago.\* The second part of the amend-

\* And thus the State of Ohio received two grants of land in one day, and in one bill, (and one of them after it had been twice rejected in the House of Representatives,) to aid in making canals within the State—a most unusual degree of liberality, of which there had been no example, and has been no imitation. Was it the result of fair legislation? or was it the effect of contrivance for an unseen purpose? of which repeated innuendoes, and frequent palpable hints, gave broad intimation—always repressed by rules of order. What was said, was sufficient to show that “a most extraordinary accident” (in the language of one of the speakers) had happened! without showing what, and how; and as an elucidation of the enigma may throw a light—an instructive one—on the business of legislation in high party times, it may be profitable here to solve it. The author of this abridgment is

H. OF R.]

Close of the Session.

[MAY, 1838.]

ments to the bill provides for the confirmation of land claims in Arkansas.

Mr. WILLIAMS and Mr. MCCOY opposed the amendments; and they were warmly advocated by Mr. KREMER, and at considerable length by Mr. FINDLAY, who gave a full statement of the origin, state, and value, of the present canals in Ohio, and explained the necessity for the aid of the Government in completing them.

Mr. WRIGHT, of Ohio, said it was not his object to consume the time of the House in debate at this late hour, however much he might be disposed to object to the provisions of that part of the amendment just read, if they stood alone; yet, as the objections rested on matters of expediency only, not affecting principle, as they were connected with a subject of deep interest to the State he, in part, represented, his object was merely to express a hope that the entire amendment of the Senate would be agreed to, rather than to jeopard the bill, by returning it again to the Senate.

MONDAY, May 26.

#### *National Paintings.*

Mr. EVERETT submitted the following resolution:

able to do so. He was contemporary with the event, and a close observer of it, and even an actor in it, so far as assisting in the other branch of Congress, (the Senate,) in an attempt to "correct the procedure." He will give the solution—thus: The presidential election depending, and the friends of the two candidates, (General Jackson and Mr. Adams,) both anxious to gain the vote of Ohio for its favorite, conceived the same idea about the same time; namely, that a liberal grant of land to the State would be a help to the candidate whose supporters obtained it. So both parties (members of Ohio, of course) moved in the business, each bringing in a separate bill, and each for the full amount of land expected. But the friends of Jackson were a little the quickest, and got in their bill first, and secured it the first consideration in the Committee of the Whole, where it was agreed to; and then, being ahead and sanctioned in the committee, its passage was considered to be a matter of course when reported to the House. But here, that "*most extraordinary accident*" happened. The bill which had been before, got behind. The one below it on the calendar got above it in the file; and being taken up first, was passed before the "*accident*" was discovered. This was fatal to the other bill—"*death and destruction to it*"—as one of its friends declared, it being impossible to expect two bills, for two grants of land to one State, to pass at the same time. And so was the event. The bill of the Jackson party, coming on after the other had passed, was rejected! and remained so—a reconsideration being refused. Then the friends of the lost bill ran up to the Senate, told what had happened, and appealed to their friends there to checkmate the move by getting the lost bill added to the other, as an amendment, when it came up for concurrence. This was done, and the same bill being agreed to in the House as an amendment, which had been rejected there as a bill, the State of Ohio received the two grants, when neither party hoped for more than one in the beginning. Such was, and may be, national legislation in high party times! great public measures ostensibly debated as meritorious, and sinistrously passed or rejected upon a party calculation.

*Resolved*, That the Commissioner of the Public Buildings be, and he is hereby authorized to cause the proper measures to be taken to secure the paintings in the Rotundo from the effects of dampness, under the direction of John Trumbull, and to allow the said John Trumbull a reasonable compensation for the same.

Mr. HAYNES moved to amend the resolution by striking out that part of it which directed this work to be performed under the superintendence of Mr. Trumbull.

After some conversation between Messrs. EVERETT, HAYNES, WICKES, and S. WOOD, on the propriety of employing an experienced artist in this operation, the amendment was rejected. Ayes 52, noes 58.

The resolution was then adopted.

#### *Retrenchment.*

On motion of Mr. HAMILTON, the House proceeded to the consideration of the resolution reported by Mr. WICKLIFFE, on the 23d instant, from the Committee on Retrenchment, directing an examination of the printing accounts of Gales and Seaton, with a view to the correction of errors in the same.

A motion was made by Mr. HAMILTON to amend the first resolution, by inserting, at the end of the same, these words: "And that he (the Clerk) report the same to this House at the next session of Congress." And further, by striking out the second resolution altogether.

Mr. BARTLETT inquired the reason for requiring an account of only a particular part of the printing executed by Gales and Seaton? Why was not the account to embrace the whole?

Mr. HAMILTON replied that the part designated was all of which the Committee on Retrenchment had to complain.

Mr. BARTLETT, after a few prefatory remarks, moved to strike out so much of the resolution as goes to classify the printing and to require the account only of a particular branch of it, so as to make the resolution embrace the whole.

#### *Close of the Session.*

A message was received from the Senate informing the House that the Senate had passed a resolution for the appointment of a Joint Committee, to wait on the President of the United States, and notify him that Congress were about to adjourn, unless he had further communications to make.

On motion of Mr. WRIGHT, of Ohio,

The House concurred in the resolution of the Senate, and Mr. WRIGHT, of Ohio, and Mr. DICKINSON were appointed the committee on the part of the House.

Mr. WRIGHT, of Ohio, from the Joint Committee appointed for the purpose, reported that the committee waited on the President of the United States, and informed him that the two Houses were about to close the present Session, by adjournment, unless he had further communication to make to Congress; and that the com-

MAY, 1838.]

*Closes of the Session.*

[H. OF R.]

mittee received for answer, that he had no further communications to make.

The **SPEAKER** then rose and addressed the House, nearly in the following words:

"**GENTLEMEN**: I avail myself of the moment of separation, to express my deep sense of gratitude and obligation to those who have kindly borne such distinguished testimony to my official conduct as the presiding officer of this House; and I should be unworthy of it, if I did not frankly acknowledge that I feel both gratified and flattered at the manner and circumstances under which it has been done. Next to the consciousness of an upright discharge of my official duties, and the confidence of my country, is the esteem and approbation of this House; and I hope I may be permitted to say, without vanity, that I have endeavored to merit it, by unwearied zeal and assiduity, and a devotion of my time and talents to its service. This station, high and exalted as it is, has, at no time, been without its embarrassments and trials. Throughout this long and protracted session, it has been one continued scene of severe responsibility and unexampled labor. Aware of the difficulty, perhaps of the temerity, of attempting to please every one, I determined to pursue, fearlessly, what I believed to be the path of duty, regardless of consequences.

"I came to this Chair to gratify no private friendships, to indulge no personal or political antipathies; and I feel proudly conscious, that its arduous duties have been discharged with a single eye to the interests of the nation, the character and dignity of the House, and my own honor. Your kind and flattering vote of approbation assures me, that my efforts have not been wholly unavailing; and candor requires me to say that, amidst all the diffi-

culties and embarrassments of the Chair, it has experienced in an unexampled manner, your kindness, confidence, and support. If, gentlemen, in the course of this long and laborious session, the peace and harmony of our deliberations have been threatened, and our councils divided, under the influence of momentary excitements of passion or party, I trust they have now, happily, passed away, and that we shall separate in the spirit of peace and good will. Here, or elsewhere, it is to be hoped, that all have but one object at heart—the good of our common country. Let me admonish you, gentlemen, that that country now stands as a mighty land and sea mark in the map of the world. It is a beacon on the margin of the main, which serves as an example to other nations, whilst it denotes the proud pre-eminence of our own. Its future destinies, and the blessings we enjoy, must vitally depend on the character and deliberations of this House. The surest means of preserving these blessings and our union unimpaired, is in a sacred and inviolate regard to the charter of our liberties, and a system of legislation founded on the principles of an honest policy, and dictated by the spirit of an enlightened and diffusive patriotism. Let us do nothing, then, which shall shake these solid foundations of our union and liberty, or impair the confidence of the people in our free institutions; but let our proceedings be marked by mutual forbearance, moderation, and wisdom. You will carry with you, in your retirement, gentlemen, my best wishes for your health and happiness; and I ardently pray to Almighty God, that, when we again assemble, we may find our country flourishing, united, and happy.

"In performing the last act of duty, by declaring this House adjourned to the first Monday in December, I bid you all an affectionate farewell."

## TWENTIETH CONGRESS.—SECOND SESSION.

### PROCEEDINGS IN THE SENATE

MONDAY, December 1, 1828.

At 12 o'clock M. the honorable SAMUEL SMITH, President of the Senate *pro tempore*, took the chair.

Thirty-two members appeared, and answered to their names.

The usual messages were interchanged between the two Houses relative to the formation of a quorum, &c., and a committee appointed to wait upon the President of the United States.

TUESDAY, December 2.

Mr. JOHNSTON, of Louisiana, from the committee appointed yesterday to wait upon the President of the United States, and inform him that a quorum of the two Houses had assembled, &c., reported that they had performed the duty assigned them, and that the President would make a communication to the two Houses to-day at 12 o'clock.

A Message was shortly afterwards received from the President of the United States, by Mr. John Adams, his Secretary, which was as follows:

*Fellow-Citizens of the Senate  
and of the House of Representatives:*

If the enjoyment in profusion of the bounties of Providence forms a suitable subject of mutual gratulation and grateful acknowledgment, we are admonished, at this return of the season when the Representatives of the nation are assembled to deliberate upon their concerns, to offer up the tribute of fervent and grateful hearts for the never-failing mercies of Him who ruleth over all. He has again favored us with healthful seasons and abundant harvests. He has sustained us in peace with foreign countries, and in tranquillity within our borders. He has preserved us in the quiet and undisturbed possession of civil and religious liberty. He has crowned the year with His goodness, imposing on us no other conditions than of improving, for our own happiness, the blessings bestowed by His hands, and, in the fruition of all His favors, of devoting the faculties with which we have been endowed by Him to His glory, and to our own temporal and eternal welfare.

In the relations of our Federal Union with our brethren of the human race, the changes which have occurred since the close of your last session have generally tended to the preservation of peace and to the cultivation of harmony. Before your last separation a war had unhappily been kindled between the Empire of Russia, one of those with which our intercourse has been no other than a constant exchange of good offices, and that of the Ottoman Porte, a nation from which geographical distance, religious opinions, and maxims of government, on their part, little suited to the formation of those bonds of mutual benevolence which result from the benefits of commerce, had kept us in a state, perhaps too much prolonged, of coldness and alienation. The extensive, fertile, and populous dominions of the Sultan belong rather to the Asiatic than the European division of the human family. They enter but partially into the system of Europe; nor have their wars with Russia and Austria, the European States upon which they border, for more than a century past disturbed the pacific relations of those States with the other great powers of Europe. Neither France, nor Prussia, nor Great Britain, has ever taken part in them; nor is it to be expected that they will at this time. The declaration of war by Russia has received the approbation or acquiescence of her allies, and we may indulge the hope that its progress and termination will be signalized by the moderation and forbearance, no less than by the energy of the Emperor Nicholas, and that it will afford the opportunity for such collateral agency in behalf of the suffering Greeks as will secure to them ultimately the triumph of humanity and of freedom.

The state of our particular relations with France has scarcely varied in the course of the present year. The commercial intercourse between the two countries has continued to increase for the mutual benefit of both. The claims of indemnity to numbers of our fellow-citizens for depredations upon their property heretofore committed, during the Revolutionary Governments, still remain unadjusted, and still form the subject of earnest representation and remonstrance. Recent advices from the Minister of the United States at Paris encourage the expectation that the appeal to the justice of the French Government will ere long receive a favorable consideration.

The last friendly expedient has been resorted to for the decision of the controversy with Great Brit-

DECEMBER, 1828.]

*The President's Message.*

[SENATE.]

sin, relating to the Northeastern boundary of the United States. By an agreement with the British Government, carrying into effect the provisions of the fifth article of the Treaty of Ghent, and the convention of 29th September, 1827, His Majesty the King of the Netherlands has, by common consent, been selected as the umpire between the parties. The proposal to him to accept the designation for the performance of this friendly office will be made at an early day, and the United States, relying upon the justice of their cause, will cheerfully commit the arbitrament of it to a Prince equally distinguished for the independence of his spirit, his indefatigable assiduity to the duties of his station, and his inflexible personal probity.

Our commercial relations with Great Britain will deserve the serious consideration of Congress, and the exercise of a conciliatory and forbearing spirit in the policy of both Governments. The state of them has been materially changed by the act of Congress passed at their last session, in alteration of the several acts imposing duties on imports, and by acts of more recent date of the British Parliament. The effect of the interdiction of direct trade, commenced by Great Britain and reciprocated by the United States, has been, as was to be foreseen, only to substitute different channels for an exchange of commodities indispensable to the colonies and profitable to a numerous class of our fellow-citizens. The exports, the revenue, the navigation, of the United States, have suffered no diminution by our exclusion from direct access to the British colonies. The colonies pay more dearly for the necessaries of life, which their government burdens with the charges of double voyages, freight, insurance, and commission, and the profits of our exports are somewhat impaired, and more injuriously transferred from one portion of our citizens to another. The resumption of this old and otherwise exploded system of colonial exclusion has not secured to the shipping interest of Great Britain the relief which, at the expense of the distant colonies and of the United States, it was expected to afford. Other measures have been resorted to more pointedly bearing upon the navigation of the United States, and which, unless modified by the construction given to the recent acts of Parliament, will be manifestly incompatible with the positive stipulations of the commercial convention existing between the two countries. That convention, however, may be terminated, with twelve months' notice, at the option of either party.

A treaty of amity, navigation, and commerce between the United States and His Majesty the Emperor of Austria, King of Hungary and Bohemia, has been prepared for signature by the Secretary of State, and by the Baron de Lederer, instructed with full powers of the Austrian Government. Independently of the new and friendly relations which may be thus commenced with one of the most eminent and powerful nations of the earth, the occasion has been taken in it, as in other recent treaties concluded by the United States, to extend those principles of liberal intercourse and of fair reciprocity which intertwine with the exchange of commerce, the principles of justice, and the feelings of mutual benevolence. This system, first proclaimed to the world in the first commercial treaty ever concluded by the United States, that of 6th February, 1778, with France, has been invariably the cherished policy of our Union. It is by treaties of commerce

alone that it can be made ultimately to prevail as the established system of all civilized nations. With this principle our fathers extended the hand of friendship to every nation of the globe, and to this policy our country has ever since adhered; whatever of regulation in our laws has ever been adopted unfavorable to the interest of any foreign nation, has been essentially defensive and counteracting to similar regulations of theirs operating against us.

Immediately after the close of the war of independence, commissioners were appointed by the Congress of the Confederation, authorized to conclude treaties with every nation of Europe disposed to adopt them. Before the wars of the French Revolution, such treaties had been consummated with the United Netherlands, Sweden, and Prussia. During those wars treaties with Great Britain and Spain had been effected, and those with Russia and France renewed. In all these, some concessions to the liberal principles of intercourse proposed by the United States had been obtained; but as, in all the negotiations, they came occasionally in collision with previous internal regulations, or exclusive and excluding compacts of monopoly, with which the other parties had been trammelled, the advances made in them towards the freedom of trade were partial and imperfect. Colonial establishments, chartered companies, and shipbuilding influence pervaded and encumbered the legislation of all the great commercial States; and the United States, in offering free trade and equal privilege to all, were compelled to acquiesce in many exceptions with each of the parties to their treaties, accommodated to their existing laws and anterior engagements.

The colonial system by which this whole hemisphere was bound has fallen into ruins; totally abolished by revolutions, converting colonies into independent nations throughout the two American continents, excepting a portion of territory chiefly at the northern extremity of our own, and confined to the remnants of dominion retained by Great Britain over the insular Archipelago, geographically the appendages of our part of the globe. With all the rest we have free trade, even with the insular colonies of all the European nations, except Great Britain. Her Government also had manifested approaches to the adoption of a free and liberal intercourse between her colonies and other nations, though, by a sudden and scarcely explained revulsion, the spirit of exclusion has been revived for operation upon the United States alone.

The conclusion of our last treaty of peace with Great Britain was shortly afterwards followed by a commercial convention, placing the direct intercourse between the two countries upon a footing of more equal reciprocity than had ever before been admitted. The same principle has since been much farther extended, by treaties with France, Sweden, Denmark, the Hanseatic cities, Prussia in Europe, and with the Republics of Colombia and of Central America, in this hemisphere. The mutual abolition of discriminating duties and charges upon the navigation and commercial intercourse between the parties is the general maxim which characterizes them all. There is reason to expect that it will, at no distant period, be adopted by other nations, both of Europe and America, and to hope that, by its universal prevalence, one of the fruitful sources of wars of commercial competition, will be extinguished.

Among the nations upon whose governments many of our fellow-citizens have had long-pending

claims of indemnity for depredations upon their property during a period when the rights of neutral commerce were disregarded, was that of Denmark. They were, soon after the events occurred, the subject of a special mission from the United States, at the close of which the assurance was given by His Danish Majesty that, at a period of more tranquillity, and of less distress, they would be considered, examined, and decided upon, in a spirit of determined purpose for the dispensation of justice. I have much pleasure in informing Congress that the fulfilment of this honorable promise is now in progress; that a small portion of the claims has already been settled, to the satisfaction of the claimants; and that we have reason to hope that the remainder will shortly be placed in a train of equitable adjustment. This result has always been confidently expected, from the character of personal integrity and of benevolence which the Sovereign of the Danish dominions has, through every vicissitude of fortune, maintained.

The general aspect of the affairs of our neighboring American nations of the South has been rather of approaching than of settled tranquillity. Internal disturbances have been more frequent among them than their common friends would have desired. Our intercourse with all has continued to be that of friendship, and of mutual good will. Treaties of commerce and of boundaries with the United Mexican States have been negotiated, but, from various successive obstacles, not yet brought to a final conclusion. The civil war which unfortunately still prevails in the Republic of Central America has been unpropitious to the cultivation of our commercial relations with them; and the dissensions and revolutionary changes in the Republics of Colombia and of Peru have been seen with cordial regret by us, who would gladly contribute to the happiness of both. It is with great satisfaction, however, that we have witnessed the recent conclusion of a peace between the Governments of Buenos Ayres and of Brazil; and it is equally gratifying to observe that indemnity has been obtained for some of the injuries which our fellow-citizens had sustained in the latter of those countries. The rest are in a train of negotiation, which we hope may terminate to mutual satisfaction, and that it may be succeeded by a treaty of commerce and navigation upon liberal principles, propitious to a great and growing commerce, already important to the interests of our country.

The condition and prospects of the revenue are more favorable than our most sanguine expectations had anticipated. The balance in the Treasury on the first of January last, exclusive of the moneys received under the convention of 13th November, 1826, with Great Britain, was five millions eight hundred and sixty-one thousand nine hundred and seventy-two dollars and eighty-three cents. The receipts into the Treasury from the first of January to the 30th of September last, so far as they have been ascertained, to form the basis of an estimate, amount to eighteen millions six hundred and thirty-three thousand nine hundred and eighty dollars and twenty-seven cents, which, with the receipts of the present quarter, estimated at five millions four hundred and sixty-one thousand two hundred and eighty-three dollars and forty cents, form an aggregate of receipts during the year of twenty-four millions and ninety four thousand eight hundred and sixty-three dollars and sixty-seven cents. The expenditures of the year may probably amount to

twenty-five millions six hundred and thirty-seven thousand five hundred and eleven dollars and sixty-three cents; and leave in the Treasury, on the first of January next, the sum of five millions one hundred and twenty-five thousand six hundred and thirty-eight dollars and fourteen cents.

The receipts of the present year have amounted to near two millions more than was anticipated at the commencement of the last session of Congress.

The amount of duties secured on importations from the 1st of January to the 30th of September was about twenty-two millions nine hundred and ninety-seven thousand, and that of the estimated accruing revenue is five millions, leaving an aggregate for the year of near twenty-eight millions. This is one million more than the estimate made last December for the accruing revenue of the present year, which, with allowances for drawbacks and contingent deficiencies, was expected to produce an actual revenue of twenty-two millions three hundred thousand dollars. Had these only been realized, the expenditures of the year would have been also proportionally reduced. For, of these twenty-four millions received, upwards of nine millions have been applied to the extinction of public debt bearing an interest of six per cent. a year, and, of course, reducing the burthen of interest annually payable in future by the amount of more than half a million. The payments on account of interest during the current year exceed three millions of dollars,\* presenting an aggregate of more than twelve millions applied during the year to the discharge of the public debt, the whole of which remaining due on the 1st of January next will amount only to fifty-eight millions three hundred and sixty-two thousand one hundred and thirty-five dollars and seventy-eight cents.

That the revenue of the ensuing year will not fall short of that received in the one now expiring there are indications which can scarcely prove deceptive. In our country a uniform experience of forty years has shown that, whatever the tariff of duties, upon articles imported from abroad, has been, the amount of importations has always borne an average value nearly approaching to that of the exports, though occasionally differing in the balance, sometimes being more, and sometimes less. It is, indeed, a general law of prosperous commerce that the real value of exports should, by a small, and only a small balance, exceed that of imports, that balance being a permanent addition to the wealth of the nation. The extent of the prosperous commerce of the nation must be regulated by the amount of its exports, and an important addition to the value of these will draw after it a corresponding increase of importations. It has happened, in the vicissitudes of the seasons, that the harvests of all Europe have, in the late summer and autumn, fallen short of their usual average. A relaxation of the interdict upon the importation of grain and flour from abroad, has ensued; a propitious market has been opened to the granaries of our country, and a new prospect of reward presented to the labors of the husbandman, which for several years has been denied. This accession to the profits of agriculture in the middle and western portions of our Union is accidental and

\* Above twelve millions of dollars, out of an income of twenty-four millions, (leaving but twelve millions for all the other government expenditures,) would imply a degree of economy worthy of imitation in these later days.

DECEMBER, 1838.]

*The President's Message.*

[SENATE.]

temporary. It may continue for a single year. It may be, as has been often experienced in the revolutions of time, but the first of several scanty harvests in succession. We may consider it certain that, for the approaching year, it has added an item of large amount to the value of our exports, and that it will produce a corresponding increase of importations. It may therefore confidently be foreseen that the revenue of 1839 will equal, and probably exceed, that of 1838, and will afford the means of extinguishing ten millions more of the principal of the public debt.

This new element of prosperity to that part of our agricultural industry which is occupied in producing the first article of human subsistence, is of the most cheering character to the feelings of patriotism. Proceeding from a cause which humanity will view with concern, the sufferings of scarcity in distant lands, it yields a consolatory reflection that this scarcity is in no respect attributable to us; that it comes from the dispensation of Him who ordains all in wisdom and goodness, and who permits evil itself only as an instrument of good; that, far from contributing to this scarcity, our agency will be applied only to the alleviation of its severity; and that, in pouring forth from the abundance of our own garners the supplies which will partially restore plenty to those who are in need, we shall ourselves reduce our stores and add to the price of our own bread, so as, in some degree, to participate in the wants which it will be the good fortune of our country to relieve.

The great interests of an agricultural, commercial, and manufacturing nation are so linked in union together that no permanent cause of prosperity to one of them can operate without extending its influence to the others. All these interests are alike under the protecting power of the Legislative authority, and the duties of the representative bodies are to conciliate them in harmony together. So far as the object of taxation is to raise a revenue for discharging the debts and defraying the expenses of the community, it should, as much as possible, suit the burthen with equal hand upon all, in proportion to their ability of bearing it without oppression. But the legislation of one nation is sometimes intentionally made to bear heavily upon the interests of another. That legislation, adapted, as it is meant to be, to the special interests of its own people, will often press most unequally upon the several component interests of its neighbors. Thus, the legislation of Great Britain when, as has been recently avowed, adapted to the depression of a rival nation, will naturally abound with regulations of interdict upon the productions of the soil or industry of the other which come in competition with its own, and will present encouragement, perhaps even bounty, to the raw material of the other State which it cannot produce itself, and which is essential for the use of its manufactures, competitors, in the markets of the world, with those of its commercial rival. Such is the state of the commercial legislation of Great Britain, as it bears upon our interests. It excludes, with interdicting duties, all importation (except in time of approaching famine) of the great staple productions of our Middle and Western States; it proscribes, with equal rigor, the bulkier lumber and live stock of the same portion, and also of the northern and eastern part of our Union. It refuses even the rice of the South, unless aggravated with

a charge of duty upon the northern carrier who brings it to them. But the cotton, indispensable for their looms, they will receive almost duty free, weave it into a fabric for our own wear, to the destruction of our own manufactures, which they are thus enabled to undersell. Is the self-protecting energy of this nation so helpless that there exists, in the political institutions of our country, no power to counteract the bias of this foreign legislation? that the growers of grain must submit to this exclusion from the foreign markets of their produce? that the shippers must dismantle their ships, the trade of the North must stagnate at the wharves, and the manufacturers starve at their looms, while the whole people shall pay tribute to foreign industry to be clad in a foreign garb? that the Congress of the Union are impotent to restore the balance in favor of native industry destroyed by the statutes of another realm? More just and more generous sentiments will, I trust, prevail. If the tariff adopted at the last session of Congress shall be found, by experience, to bear oppressively upon the interests of any one section of the Union, it ought to be, and I cannot doubt will be, so modified as to alleviate its burthen. To the voice of just complaint from any portion of their constituents, the Representatives of the States and people will never turn away their ears. But so long as the duty of the foreign shall operate only as a bounty upon the domestic article; while the planter, and the merchant, and the shepherd, and the husbandman shall be found thriving in their occupations under the duties imposed for the protection of domestic manufactures, they will not repine at the prosperity shared with themselves by their fellow-citizens of other professions, nor denounce as violations of the constitution the deliberate acts of Congress to shield from the wrongs of foreign laws the native industry of the Union. While the tariff of the last session of Congress was a subject of legislative deliberation, it was foretold by some of its opposers that one of its necessary consequences would be to impair the revenue. It is yet too soon to pronounce with confidence that this prediction was erroneous. The obstruction of one avenue of trade not unfrequently opens an issue to another. The consequence of the tariff will be to increase the exportation, and to diminish the importation, of some specific articles. But, by the general law of trade, the increase of exportation of one article will be followed by an increased importation of others, the duties upon which will supply the deficiencies which the diminished importation would otherwise occasion. The effect of taxation upon revenue can seldom be foreseen with certainty. It must abide the test of experience. As yet, no symptoms of diminution are perceptible in the receipts of the treasury. As yet, little addition of cost has even been experienced upon the articles burthened with heavier duties by the last tariff. The domestic manufacturer supplies the same or a kindred article at a diminished price, and the consumer pays the same tribute to the labor of his own countrymen which he must otherwise have paid to foreign industry and toil.

The tariff of the last session was, in its details, not acceptable to the great interests of any portion of the Union, not even to the interest which it was specially intended to subserve. Its object was to balance the burthens upon native industry imposed by the operation of foreign laws; but not to aggra-



vate the burthens of one section of the Union by the relief afforded to another. To the great principle sanctioned by that act, one of those upon which the constitution itself was formed, I hope and trust the authorities of the Union will adhere. But if any of the duties imposed by the act only relieve the manufacturer by aggravating the burthen of the planter, let a careful revival of its provisions, enlightened by the practical experience of its effects, be directed to retain those which impart protection to native industry, and remove or supply the place of those which only alleviate one great national interest by the depression of another.

The United States of America, and the people of every State of which they are composed, are each of them sovereign powers. The legislative authority of the whole is exercised by Congress, under authority granted them in the common constitution. The legislative power of each State is exercised by assemblies deriving their authority from the constitution of the State. Each is sovereign within its own province. The distribution of power between them presupposes that these authorities will move in harmony with each other. The members of the State and General Governments are all under oath to support both, and allegiance is due to the one and to the other. The case of a conflict between these two powers has not been supposed; nor has any provision been made for it in our institutions—as a virtuous nation of ancient times existed more than five centuries without a law for the punishment of parricide.

More than once, however, in the progress of our history, have the people and Legislatures of one or more States, in moments of excitement, been instigated to this conflict; and the means of effecting this impulse have been allegations that the acts of Congress to be resisted were unconstitutional. The people of no one State have ever delegated to their Legislature the power of pronouncing an act of Congress unconstitutional; but they have delegated to them powers, by the exercise of which the execution of the laws of Congress within the State may be resisted. If we suppose the case of such conflicting legislation sustained by the corresponding Executive and Judicial authorities, patriotism and philanthropy turn their eyes from the condition in which the parties would be placed, and from that of the people of both, which must be its victims.

The reports from the Secretary of War and from the various subordinate offices of the resort of that Department, present an exposition of the public administration of affairs connected with them, through the course of the current year. The present state of the army, and the distribution of the force of which it is composed, will be seen from the report of the Major General. Several alterations in the disposal of the troops have been found expedient in the course of the year, and the discipline of the army, though not entirely free from exception, has been generally good.

The attention of Congress is particularly invited to that part of the report of the Secretary of War which concerns the existing system of our relations with the Indian tribes. At the establishment of the Federal Government, under the present Constitution of the United States, the principle was adopted of considering them as foreign and independent powers; and also as proprietors of lands. They were, moreover, considered as savages, whom it was our

policy and our duty to use our influence in converting to Christianity, and in bringing within the pale of civilization.

As independent powers, we negotiated with them by treaties; as proprietors, we purchased of them all the lands which we could prevail upon them to sell; as brethren of the human race, rude and ignorant, we endeavored to bring them to the knowledge of religion and of letters. The ultimate design was to incorporate in our own institutions that portion of them which could be converted to the state of civilization. In the practice of European States, before our Revolution, they had been considered as children to be governed; as tenants at discretion, to be dispossessed as occasion might require; as hunters, to be indemnified by trifling concessions for removal from the grounds upon which their game was extirpated. In changing the system, it would seem as if a full contemplation of the consequences of the change had not been taken. We have been far more successful in the acquisition of their lands than in imparting to them the principles, or inspiring them with the spirit, of civilization. But in appropriating to ourselves their hunting-grounds, we have brought upon ourselves the obligation of providing them with subsistence; and when we have had the rare good fortune of teaching them the arts of civilization, and the doctrines of Christianity, we have unexpectedly found them forming, in the midst of ourselves, communities claiming to be independent of ours, and rivals of sovereignty, within the territories of the members of our Union. This state of things requires that a remedy should be provided—a remedy which, while it shall do justice to those unfortunate children of nature, may secure to the members of our confederation their rights of sovereignty and of soil. As the outline of a project to that effect, the views presented in the report of the Secretary of War are recommended to the consideration of Congress.

The report from the Engineer Department presents a comprehensive view of the progress which has been made in the great systems promotive of the public interest, commenced and organized under the authority of Congress, and the effects of which have already contributed to the security, as they will hereafter largely contribute to the honor and dignity of the nation.

The first of these great systems is that of fortifications, commenced immediately after the close of our last war, under the salutary experience which the events of that war had impressed upon our countrymen of its necessity. Introduced under the auspices of my immediate predecessor, it has been continued with the persevering and liberal encouragement of the Legislature; and combined with corresponding exertions for the gradual increase and improvement of the navy, prepares for our extensive country a condition of defence, adapted to any critical emergency, which the varying course of events may bring forth. Our advances in these concerted systems have for the last ten years been steady and progressive, and in a few years more will be so completed, as to leave no cause for apprehension that our seacoast will ever again offer a theatre of hostile invasion.

The next of these cardinal measures of policy is the preliminary to great and lasting works of public improvement, in the surveys of roads, examination for the course of canals, and labors for the removal

December, 1828.]

*The President's Message.*

[SENATE.]

of the obstructions of rivers and harbors, first commenced by the act of Congress of 30th April, 1824.

The report exhibits in one table the funds appropriated at the last and preceding sessions of Congress, for all these fortifications, surveys, and works of public improvement: the manner in which these funds have been applied, the amount expended upon the several works under construction, and the further sums which may be necessary to complete them. In a second, the works projected by the Board of Engineers, which have not been commenced, and the estimate of their cost.

In a third, the report of the annual Board of Visitors at the Military Academy at West Point. For thirteen fortifications erecting on various points of our Atlantic coast, from Rhode Island to Louisiana, the aggregate expenditure of the year has fallen a little short of one million of dollars.

For the preparation of five additional reports of reconnaissances and surveys since the last session of Congress; for the civil constructions upon thirty-seven different public works commenced; eight others for which specific appropriations have been made by acts of Congress, and twenty other incipient surveys under the authority given by the act of 30th April, 1824, about one million more of dollars have been drawn from the treasury.

To these two millions of dollars are to be added the appropriation of two hundred and fifty thousand dollars, to commence the erection of a breakwater near the mouth of the Delaware River; the subscriptions to the Delaware and Chesapeake, the Louisville and Portland, the Dismal Swamp, and the Chesapeake and Ohio Canal; the large donations of lands to the States of Ohio, Indiana, Illinois, and Alabama, for objects of improvements within those States, and the sums appropriated for light houses, buoys, and piers, on the coast; and a full view will be taken of the munificence of the nation in the application of its resources to the improvement of its own condition.

Of these great national undertakings, the Academy at West Point is among the most important in itself, and the most comprehensive in its consequences. In that institution, a part of the revenue of the nation is applied to defray the expense of educating a competent portion of her youth, chiefly to the knowledge and the duties of military life. It is the living armory of the nation. While the other works of improvement enumerated in the reports now presented to the attention of Congress, are destined to ameliorate the face of nature; to multiply the facilities of communication between the different parts of the Union; to assist the labors, increase the comforts, and enhance the enjoyments of individuals—the instruction acquired at West Point enlarges the dominion and expands the capacities of the mind. Its beneficial results are already experienced in the composition of the army, and their influence is felt in the intellectual progress of society. The institution is susceptible still of great improvement from benefactions proposed by several successive Boards of Visitors, to whose earnest and repeated recommendations I cheerfully add my own.

With the usual annual reports from the Secretary of the Navy and the Board of Commissioners, will be exhibited to the view of Congress the execution of the laws relating to that department of the public service. The repression of piracy in the West Indian and in the Grecian seas has been effectually maintained with scarcely any ex-

ception. During the war between the Governments of Buenos Ayres and of Brazil, frequent collisions between belligerent acts of power and the rights of neutral commerce occurred. Licentious blockades, irregularly enlisted or impressed seamen, and the property of honest commerce seized with violence, and even plundered under legal pretences, are disorders never separable from the conflicts of war upon the ocean. With a portion of them, the correspondence of our commanders on the Eastern aspect of the South American coast, and among the Islands of Greece, discover how far we have been involved. In these, the honor of our country and the rights of our citizens have been asserted and vindicated. The appearance of new squadrons in the Mediterranean, and the blockade of the Dardanelles, indicate the danger of other obstacles to the freedom of commerce, and the necessity of keeping our naval force in those seas. To the suggestions repeated in the report of the Secretary of the Navy, and tending to the permanent improvement of this institution, I invite the favorable consideration of Congress.

The resolution of the House of Representatives, requesting that one of our small public vessels should be sent to the Pacific Ocean and South Sea, to examine the coasts, islands, harbors, shoals, and reefs, in those seas, and to ascertain their true situation and description, has been put in a train of execution. The vessel is nearly ready to depart; the successful accomplishment of the expedition may be greatly facilitated by suitable legislative provisions; and particularly by an appropriation to defray its necessary expense. The addition of a second, and, perhaps, a third vessel, with a slight aggravation of the cost, would contribute much to the safety of the citizens embarked on this undertaking, the results of which may be of the deepest interest to our country.

With the report of the Secretary of the Navy will be submitted, in conformity to the act of Congress, of 3d March, 1827, for the gradual improvement of the navy of the United States, statements of the expenditures under that act, and of the measures taken for carrying the same into effect. Every section of that statute contains a distinct provision, looking to the great object of the whole—the gradual improvement of the navy. Under its salutary sanction, stores of ship-timber have been procured, and are in process of seasoning and preservation for the future uses of the navy. Arrangements have been made for the preservation of the live oak timber growing on the lands of the United States, and for its re-production, to supply, at future and distant days, the waste of that most valuable material for ship building, by the great consumption of it, yearly, for the commercial as well as for the military marine of our country. The construction of the two dry docks at Charlestown and at Norfolk, is making satisfactory progress towards a durable establishment. The examinations and inquiries to ascertain the practicability and expediency of a marine railway at Pensacola, though not yet accomplished, have been postponed but to be the more effectually made. The navy yards of the United States have been examined, and plans for their improvement, and the preservation of the public property therein, at Portsmouth, Charlestown, Philadelphia, Washington, and Gosport, and to which two others are to be added, have been prepared, and received my sanction; and no other

portion of my public duties has been performed with a more intimate conviction of its importance to the future welfare and security of the Union.

With the report from the Postmaster General is exhibited a comparative view of the gradual increase of that establishment, from five to five years, since 1792, till this time, in the number of post offices, which has grown from less than two hundred to nearly eight thousand; in the revenue yielded by them, which, from sixty-seven thousand dollars, has swollen to upwards of a million and a half; and in the number of miles of post roads, which, from five thousand six hundred and forty-two, have multiplied to one hundred and fourteen thousand five hundred and thirty-six. While, in the same period of time, the population of the Union has about thrice doubled, the rate of increase of these offices is nearly forty, and of the revenue, and of travelled miles, from twenty to twenty-five for one. The increase of revenue, within the last five years, has been nearly equal to the whole revenue of the department in 1812.

The expenditures of the department, during the year which ended on the first of July last, have exceeded the receipts by a sum of about twenty-five thousand dollars. The excess has been occasioned by the increase of mail conveyances and facilities, to the extent of near eight hundred thousand miles. It has been supplied by collections from the Postmasters, of the arrearages of preceding years. While the correct principle seems to be, that the income levied by the department should defray all its expenses, it has never been the policy of this Government to raise from this establishment any revenue to be applied to any other purposes. The suggestion of the Postmaster General, that the insurance of the safe transmission of moneys by the mail, might be assumed by the department, for a moderate and competent remuneration, will deserve the consideration of Congress.

A report from the Commissioner of the Public Buildings in this city exhibits the expenditures upon them in the course of the current year. It will be seen that the humane and benevolent intentions of Congress in providing, by the act of 20th May, 1826, for the erection of a Penitentiary in this District, have been accomplished. The authority of farther legislation is now required for the removal to this tenement of the offenders against the laws, sentenced to atone by personal confinement for their crimes, and to provide a code for their employment and government while thus confined.

The commissioners appointed conformably to the act of 2d March, 1827, to provide for the adjustment of claims of persons entitled to indemnification under the first article of the treaty of Ghent, and for the distribution among such claimants of the sum paid by the Government of Great Britain under the convention of 18th November, 1826, closed their labors on the 30th of August last, by awarding the claimants the sum of one million one hundred and ninety-seven thousand four hundred and twenty-two dollars and eighteen cents; leaving a balance of seven thousand five hundred and thirty-seven dollars and eighty-two cents, which was distributed ratably amongst all the claimants to whom awards had been made, according to the directions of the act.

The exhibits appended to the report from the Commissioner of the General Land Office present the actual condition of that common property of the

Union. The amount paid into the treasury from the proceeds of lands, during the year 1827, and the first half of 1828, falls little short of two millions of dollars. The propriety of further extending the time for the extinguishment of the debt due to the United States by the purchasers of the public lands, limited, by the act of 21st March last, to the fourth of July next, will claim the consideration of Congress, to whose vigilance and careful attention, the regulation, disposal, and preservation, of this great national inheritance, has, by the people of the United States, been intrusted.

Among the important subjects to which the attention of the present Congress has already been invited, and which may occupy their further and deliberate discussion, will be the provision to be made for taking the fifth census or enumeration of the inhabitants of the United States. The Constitution of the United States requires that this enumeration should be made within every term of ten years, and the date from which the last enumeration commenced, was the first Monday of August, of the year 1820. The laws under which the former enumerations were taken, were enacted at the session of Congress immediately preceding the operation. But considerable inconveniences were experienced from the delay of legislation to so late a period. That law, like those of the preceding enumerations, directed that the census should be taken by the Marshals of the several Districts and Territories, under instructions from the Secretary of State. The preparation and transmission to the marshals of those instructions required more time than was then allowed between the passage of the law and the day when the enumeration was to commence. The term of six months, limited for the returns of the marshals, was also found even then too short, and must be more so now, when an additional population of at least three millions must be presented upon the returns. As they are to be made at the short session of Congress, it would, as well as from other considerations, be more convenient to commence the enumeration from an earlier period of the year than the first of August. The most favorable season would be the spring. On a review of the former enumerations, it will be found that the plan for taking every census has contained improvements upon that of its predecessor. The last is still susceptible of much improvement. The third census was the first at which any account was taken of the manufactures of the country. It was repeated at the last enumeration, but the returns in both cases were necessarily very imperfect. They must always be so, resting of course only on the communications voluntarily made by individuals interested in some of the manufacturing establishments. Yet they contained much valuable information, and may, by some supplementary provision of the law, be rendered more effective. The columns of age, commencing from infancy, have hitherto been confined to a few periods, all under the number of forty-five years. Important knowledge would be obtained by extending those columns, in intervals of ten years, to the utmost boundaries of human life. The labor of taking them would be a trifling addition to that already prescribed, and the result would exhibit comparative tables of longevity highly interesting to the country. I deem it my duty farther to observe, that much of the imperfections in the returns of the last and perhaps of preceding enumerations, proceeded from the in-

DECEMBER, 1828.]

*The Lead Mines in Missouri.*

[SENATE.]

adequateness of the compensations allowed to the marshals and their assistants in taking them.

In closing this communication, it only remains for me to assure the legislature of my continued earnest wish for the adoption of measures recommended by me heretofore, and yet, to be acted on by them; and of the cordial concurrence on my part, in every constitutional provision which may receive their sanction during the session, tending to the general welfare.

JOHN QUINCY ADAMS.

WASHINGTON, December 2, 1828.

The Message was read; and three thousand copies of the Message, and fifteen hundred of the documents accompanying it, were ordered to be printed for the use of the Senate.

TUESDAY, December 9.

The Senate concluded the balloting for the remainder of their Standing Committees.

The President communicated the annual Report of the Secretary of the Treasury on the state of the Finances;\* which was read, and

\* Extract from the report, Richard Rush, Esq., Secretary of the Treasury.

The actual receipts from all sources, during the year 1827, amounted, as will be seen in document No. 5 to twenty-two millions nine hundred and sixty-six thousand three hundred and sixty-three dollars and ninety-six cents; which, with the balance in the Treasury on the 1st of January of that year, of six millions three hundred and fifty-eight thousand six hundred and eighty-six dollars and eighteen cents, gives an aggregate of twenty-nine millions three hundred and twenty-five thousand and fifty dollars and fourteen cents. Of the sums received as above, during 1827, the customs yielded upwards of nineteen millions and a half, and the sales of public lands nearly one million and a half. The expenditures of the United States for the same year amounted to twenty-two millions six hundred and fifty-six thousand seven hundred and sixty-four dollars and four cents. The same document will supply a specification of the particulars, and show a balance in the Treasury, on the 1st January, 1828, of six millions six hundred and sixty-eight thousand two hundred and eighty-six dollars and ten cents.

The actual receipts during the three first quarters of 1828, (doc. No. 3,) are supposed to have amounted to eighteen millions six hundred and thirty-three thousand five hundred and eighty dollars and twenty-seven cents; and those of the fourth quarter, it is supposed, will amount to five millions four hundred and sixty-one thousand two hundred and eighty-three dollars and forty cents; making the total receipts for 1828, twenty-four millions ninety-four thousand eight hundred and sixty-three dollars and sixty-seven cents; which, added to the balance in the Treasury on the first of January, as above stated, gives an aggregate of thirty millions seven hundred and sixty-three thousand one hundred and forty-nine dollars and seventy-seven cents. The expenditures of the three first quarters of the year [same document,] are supposed to have amounted to eighteen millions two hundred and forty-four thousand nine hundred and seven dollars and ninety-one cents; and those for the fourth quarter, it is supposed, will amount to seven millions three hundred and ninety-two thousand six hundred and three dollars and seventy-two cents; making for the whole year, twenty-five millions six hundred and thirty-seven thousand five hundred and eleven dollars and sixty-three cents. This expenditure includes, as the items in the document will show, upwards of twelve millions on account of the debt, and will leave in the Treasury, on the first of January, 1829, an estimated balance of five millions one hundred and twenty-five thousand six hundred and thirty-eight dollars and fourteen cents. This balance will be subject to the appropriations of moneys for the service of 1829, that have not, as yet, been called for—a sum estimated at three millions five hundred thousand dollars, and includes the one million of dollars in funds not now effective, as heretofore explained.

*Remark upon the above.*

We have permanent acts of Congress requiring a certain amount, (formerly two millions, now six,) over and above the

1,500 extra copies ordered to be printed for the use of the Senate.

THURSDAY, December 18.

*The Lead Mines in Missouri.*

The bill for the sale of the lead mines in the State of Missouri, (introduced by Mr. BENTON,) was taken up and considered as in Committee of the Whole.

Mr. BRANCH said he should like to hear the reasons assigned for the passage of the bill, as he did not see the necessity of disposing of the public property in this manner. They were already hurrying the property into market faster than there was any occasion for; and there was no reason, in his mind, why these mines should be exposed to sale.

Mr. BENTON said, the same subject had been frequently before the Senate, and had, during the last session, he believed, passed this body, and been sent to the other House. The facts had often been exposed to the consideration of the Senate, and of committees, and very elaborate reports had been made, filling several hundred pages, of their proceedings. This bill did not apply to the lead mines of the Upper Missouri, but was confined to those within the bounds of the State of Missouri. Those upon the Upper Missouri were first discovered about the year 1720, and had been worked from that time to the present; but the mines in Missouri had been, for a long time, unworked; the land had been but scratched over, or had been dug some fifteen or twenty feet. The mines in Missouri were very little profit to anybody, and reports from that section stated, that very little was received from them; they were neither profitable nor desirable property to the Federal Government. This bill barely authorized them to be offered for sale; it did not order their sale; there was no coercion—on the contrary, the notice of the sale was not of the ordinary kind. Public notice was to be given in every State in the Union, in some newspaper, six months before the sale. It was five and twenty years since Louisiana came into the possession of the United States, and it was five and

appropriations, to be kept in the Treasury. It is mistaken legislation, always unnecessary, and always pernicious, in keeping up more revenue than needed. Both reason and experience show, that the whole of the appropriations cannot be expended in the year—that there always remains an excess, generally about one-fourth—which cannot be expended until the ensuing year; when its place, as it goes out, will be supplied by the incoming revenue. This has been the case from the beginning of the Government, as may be seen in all the annual finance reports, and forever will be the case; so that the operations of the Government may be carried on for considerably less, say one-fourth less, than the annual income. In the two years above mentioned, (1827 and '28,) in an income of about twenty-five millions, and corresponding appropriations, upwards of six millions and a half remained unexpended at the end of each year; and about the same excess was estimated for the ensuing year.

twenty years since these mines were discovered, an early law of Louisiana provided for the reservation of certain of these lands, so that they could not be sold. He thought it time to have them explored, and made productive. He did not see why the gentleman from North Carolina opposed the bill, and wished to stretch the sceptre of barrenness over the whole of the State of Missouri. The Government would be no loser by the sale, and, if no advantages were to accrue to the Government of the United States, or to any body else, by keeping the mineral country of Missouri in a state of barrenness, why should the bill be opposed?

Mr. BRANCH replied, that it was generally conceded, that, where authority was given to the President of the United States, or to any of the Departments, that it was equivalent to saying that the power might be exercised; and, although the authority given by this bill was discretionary only, he conceived that it would, in fact, be peremptory; for, if the President of the United States had liberty to dispose of these lands, he would be importuned by speculators until he had thrown the whole into the market. And why should they force the sale of what it was not necessary to sell, and why should the State of Missouri be so anxious to have them disposed of? Is not this the wealth of the country? Is not this the general treasure, purchased by the public money? Is Missouri alone interested in these lead mines? No, sir, this is the public property. He would ask the honorable senator, if the mines belonged to the State of Missouri, whether he would be so willing to throw them into the market now? Would he not keep them until there was a demand for them? Would he not wait until a more propitious period? He (Mr. B.) thought he would.

Mr. BARTON said, the Senate must be well acquainted with the fact, that, at the time the State of Louisiana was purchased, the Missouri mines were but little known, and that the general idea was, that they were immensely valuable. Among the first laws passed by the State of Louisiana, was one making large reservations of land, in the neighborhood of these mines. Since that time, much more was known of the mines than at that early period. It was now known, that almost the whole of the southern part of the State of Missouri, which was a broken and poor country, was a mineral country. It was also known, that the most valuable lead mines in the United States were north of the State of Missouri. The Spanish lead mine was there, and the whole of the valuable mineral country was in a triangle, made by the boundary line of Missouri and the Mississippi River. It was necessary for the United States to cover this country with tenantry, and their mines were almost inexhaustible. The whole of this other country had been examined, and people were anxious to work it. The mining business was known to be extremely uncertain, and it was also extremely fascinating; it was

something like gambling, exciting high hopes, which were frequently not realized. Under the present United States laws, several cases had occurred in which lands had been sold to individuals, and lead ore afterwards being discovered upon the lands, the patents were withheld. Now the Government did not want these lands; they had already inexhaustible stores in the Spanish mine, the Fever River lead mines, in the State of Illinois, and upon the east and west sides of the Mississippi. The project of this bill was not to force the sale. The gentleman from North Carolina had supposed, that, because the Government could dispose of them, they must necessarily; but it did not follow; the President of the United States might have firmness enough to resist improper importunities. He would state a case of the difficulty of which he had complained. In the village of Belle Vue, a tract of land had been sold by the Government to an individual as long ago as the year 1806; lately, ore has been discovered not upon his tract, but in the neighborhood of it, in another part of the town, in consequence of which his patent has been withdrawn.

Under this state of things, in the course of time, almost the whole State of Missouri will be reserved, and withheld from sale, and subject to this system. The mines on the Upper Missouri, and north of the State, were so much more valuable, and, as they were worked, the settlers and laborers had left the State of Missouri and gone up to them. This bill only abolished the law of reservation and restriction, which had been found to be extremely injurious to that country, and which must ultimately be the ruin of it.

Mr. CHANDLER observed, that, as the gentlemen from Missouri must know more of the subject than they who lived at a greater distance, he would ask them if this land had ever been surveyed by authority of the Government, and whether there were any reports upon the subject; if so, he should like to see them, that he might have some more information, and make up his mind—as it might be advisable to sell all these lands, or it might be better to sell only a part. There were always many speculators about a new country, and, as the gentleman from North Carolina very justly observed, if the President once had the liberty, he would be constantly importuned until he had thrown the whole of them into the market.

The President here read an amendment to the bill, which had been reported by the Committee on the Public Lands, and stated that the question would be upon the amendment; which was explained by Mr. BARTON.

Mr. BENTON then replied, that very ample reports had been made, both by Government agents and others. The United States appointed an agent there, many years ago, with a salary of \$1,500 per annum, who had examined the country; and reports had also been made by persons who had been a long time resident in that country. As it was early in the ses-

DECEMBER, 1828.]

*Drawback on Merchandise.*

[SENATE.]

sion, he was willing the bill should lie over, that the gentleman might examine the reports on the subject.

The question being taken on the amendment proposed by the committee, it was adopted, and the bill was ordered to be engrossed for a third reading.

MONDAY, December 22.

The Senate was principally occupied this day in discussing a bill for the relief of Susan Decatur et al.

TUESDAY, December 23.

*Commerce of the West.*

A bill, "allowing duties on foreign merchandise, imported into Louisville, Pittsburg, Cincinnati, and St. Louis, to be secured and paid at those places," was taken up and considered.

Mr. WOODBURY (Chairman of the Committee on Commerce) said, this was the same bill which had been before that committee, and passed the Senate, at its last session, but was not acted upon in the House of Representatives. Full security was afforded to the public, by its provisions, that the duties would be paid; and, as the convenience of the merchants of the Western country would be promoted, and the public lose nothing by the proposed arrangement, he saw no obstacle to the passage of the bill.

Mr. MARKS said he recollected that, two sessions since, he had presented a memorial from the merchants of Pittsburg, praying that the place might be made a port of entry. Since that time, he had understood that the citizens of Pittsburg did not require the passage of a law on the subject; they were altogether indifferent to its passage, and he was not certain whether they would approve of it. He merely rose to give the Senate this information. It was altogether immaterial to him what order the Senate took upon the bill.

Mr. WOODBURY said, the gentleman from Pennsylvania had not, certainly, paid attention to the provisions of the bill. He would state, for his information, that the bill did not provide for the establishment of ports of entry: it was not the intention of the committee to make such a provision. It was at first contemplated; but, for himself, he was against it. The bill provides merely, that the duties on goods to be imported into Louisville, &c., shall be secured to be paid at those places: the bonds will then be sent to New Orleans, and paid at such places as the collector of that port might direct. While on the floor, he would state, that an amendment had been made to the bill, at the last session, which was not contained in it as introduced by the Senator from Missouri, viz., to include "Nashville in the State of Tennessee," as one of the places at which, also, duties on foreign merchandise might be secured to be paid. For the purpose of extending the same privilege to that place, he would move

that the words he had named be inserted in the bill.

The motion of Mr. W. prevailed.

Mr. BENTON stated, that the object of the bill was to give facilities to those persons in the Western country who were engaged in foreign commerce. The bill was under the consideration of the Committee of Commerce, when a distinguished senator from Massachusetts (Mr. LLOYD) was its Chairman. He approved of making the places named in the bill ports of entry. Since then, that committee had contemplated a different method, which was considered more safe. For years past, foreign goods had been imported into the Western country, consigned to merchants in the interior, from the port of Liverpool in particular. New Orleans was the port of delivery, and the consignees had to pay two or three per cent. to commission merchants to attend to the transshipment of their property, and the security of the duties upon it. This was one hardship. Another was, the great advance of money which it cost them to have the business attended to. It was a fact, that some of the interior towns were nearer to the Gulf of Mexico than New Orleans was fifteen years ago. These merchants can attend to their own business quite as well, if not better, than it is now attended to at New Orleans, and the Government be equally secured in the payment of the duties; while it would be a great accommodation to those merchants, if the bill should pass. As far as the change contemplated by the bill was known, it had given general satisfaction; it would be of great advantage to the commerce of the West, if it should become a law, and, certainly, would be of no material injury to the country. He, therefore, hoped it would pass.

The question on ordering the bill to be engrossed for a third reading, was decided in the affirmative.

TUESDAY, December 30.

*Drawback on Merchandise.*

A bill "to extend the time within which merchandise may be exported with the benefit of drawback," was considered as in Committee of the Whole—the question being on striking out the second section.

Mr. SMITH, of Maryland, said, he would give the Senate information of the course pursued in Great Britain on this subject. The practice in that country was, that, on a representation to the Lords Commissioners of the Treasury of the necessity therefor, they had the power, and used their discretion, in extending the time in which merchandise might be exported for the benefit of drawback. The section proposed to be stricken out gives this power to the Secretary of the Treasury. The Committee on Finance were of opinion that this was giving a Legislative power to an Executive officer, which was improper, and therefore had recommended that it be stricken out.

The amendment was agreed to.

Mr. SILSBEE said, that, as the amendment took away some of the advantages proposed by the bill, he would move for an extension of time in which merchandise might be exported for this benefit. Two years were allowed by the bill. Great Britain, France, &c., allowed a longer time; he thought our merchants ought to be put on as good a footing; and he would therefore move to amend the bill by striking out the word two in the seventh line of the first section, and inserting three.

This amendment was also agreed to.

The bill, as amended, was reported to the Senate, the amendments concurred in, and ordered to be engrossed for a third reading.

#### *Drawback on Refined Sugar.*

A bill granting an extension of drawback on refined sugar, &c., was taken up in committee.

Mr. SMITH, of Maryland, explained the bill. The present law allowed four cents drawback on sugar refined within the United States. The object of the present bill was to allow five cents. It required two pounds of sugar, in its crude state, to make one pound of refined. The duty on brown sugar was three cents per pound; consequently, a drawback of six cents would be required in favor of the refiner. The treacle obtained from the sugar was, however, valued at one cent per pound, in favor of the refiner, and therefore five cents, the drawback fixed upon in the bill, would be a fair allowance, and would indemnify him for the amount of duties actually paid to Government. Should the bill pass, the American refiner of sugar would be enabled to enter into competition with the foreign manufacturer in foreign markets. There could be no possible disadvantage arise from passing the bill; it would not enhance the price of sugar to the consumers of the country, and would greatly tend to benefit the merchant in helping him to make up an assorted cargo for the South American, Chinese, and other markets. The only question was, what was the proper drawback to be allowed? The Secretary of the Treasury had fixed it at five cents. During the French Revolution, when all the markets of the world were open to us, he was himself engaged in the business of refining and exporting sugar; then it was done to advantage; for we were the only nation that enjoyed a free trade; now, times had changed, and some inducements must be held out, or competition on our part would cease altogether. Sugar raised in this country had never been, and could not be, refined; and the reason was, it was not strong enough. Batavia sugar was used for this purpose, and that of Cuba, which was superior, because much stronger. The Havana sugar, particularly, was of a proper quality for refining. A portion only of the sugar imported was used by the refiners, and this portion was generally confined to the white and clayed qualities. We carried on a great trade with the Havana; they received

from us nearly all the articles consumed by them, with the exception of dry goods, and in return sent us sugar. In its refined state it was an article of commerce. On the whole, the extension of the drawback system would be beneficial to the agriculturist, the manufacturer, and the navigator, and he hoped the bill would pass.

Mr. BENTON observed, that whatever reasons might have existed for the drawback system in 1790, they no longer prevailed. Instead of increasing it, this system should be diminished, or repealed altogether. At the time referred to, no sugar was raised in the United States; frauds on the revenue were not so likely to take place; there were then no exports but of articles which had been brought into the country; and there was then a nominal drawback on domestic spirits, made from molasses. What was the proof on this subject at the last session of Congress? Why, that frauds were produced by this system, on the revenue; and that, instead of a drawback, we were paying four cents premium on foreign articles. In consequence, the nominal drawback was repealed entirely. The same should be done in this case. As to American sugar not being fitted for refining, this was but the reiteration of an old story. The same had been said of wool, hemp, and iron. The true reason was, however, that the refiner can procure the foreign material cheaper than the domestic, and, therefore, he preferred it. The duty on West India sugar was four cents; if this duty be taken off, as by the bill it will be, we shall discover the true difference between American and foreign sugar.

He could see no reason why New Orleans sugar might not be made as dry and as fit for refining as the Havana. He looked upon the proposed measure as in effect a tax upon the American people, for the benefit of foreigners. He had a regard for the South Americans, but he loved his own constituents better. He should be glad to see every branch of industry prosper, but he could not consent to the prostration of his constituents. The effect of the bill was to give a premium of one per cent. on every pound of sugar refined and exported, which was a greater profit than was obtained by the cultivators of the earth. Considerable quantities of refined sugar were exported, and the export was on the increase. If the refiners could export at present, the additional bounty (for he could look upon it in no other light) of one per cent. would cause immense shipments, and the country would be either unsupplied, of great and exorbitant profits exacted.

Mr. SILSBEE supported the bill. When before the committee at the last session, he had endeavored to inform himself upon the subject, and from all the information he could obtain, five cents would rather fall short of a proper allowance of drawback. He conceived the question to be, whether we would give encouragement to the refiners of this country, or to foreigners. He differed from the gentleman from

DECEMBER, 1838.]

*Drawback on Refined Sugar.*

[SENATE.]

Missouri, as to the injurious effect upon American sugar, stated by him. He enlarged upon the benefits and advantages of the trade of this country with the Havana; stated that it had been the custom at the eastward to send refined sugar to Leghorn, and other parts of the Mediterranean; that more would have been sent, but that the article could be furnished cheaper from France. The cultivation of sugar in France, as he had been informed, was on the increase, and yet, they allowed the importation of the article, with a drawback of the whole of the duties, for the purpose of refining and exportation. The question was, whether we should allow a drawback to the whole amount of the duties or not?

Mr. WOODBURY, in reply to Mr. BENTON, said, that the original policy of the drawback system was to encourage manufactures and the carrying trade. There was no tax on sugar that did not go into the consumption of the country; and, to encourage the carrying trade, the sugar refined should be as free from tax now as heretofore. It was not the policy of the country to tax what was not consumed in the country; and from every pound of sugar exported, the tax should be drawn back. The duties would be deducted from iron, duck, hemp, and other articles used in the manufacture of ships, if they were not consumed in the country; but they are. Sugar, after it was refined, was not consumed in the country, but sent out of it. There was no fraud on the revenue; for the sugar could be, and was traced out of it. The refining of this article did not interfere with the manufacturers of sugar, but aided them. The gentleman from Missouri complained that it was an injury to agriculture; but, so far from its coming into competition with the manufacture of sugar, evidence before Congress satisfactorily showed that it did not: for the quality of American sugar would not answer—it was altogether unsuitable. This was a matter of fact, and he the more readily appealed to it. But, suppose it was suitable, every hundred weight used in refining would bring a hundred weight of foreign sugar into consumption. Where then was the difference? Neither the domestic sugar, nor the revenue was injured by a drawback on foreign sugar refined. The Treasury did not suffer—the debentures did not exceed \$2,000 per annum, while the duties on sugar imported exceeded \$2,000,000. Nothing therefore was lost to the Treasury unless the debentures exceeded the importation. The operation of the bill would certainly be beneficial to agriculture, because, in exchange for the sugar obtained, we sell our lumber, flour, corn, &c., &c. We must have a market abroad—and one of the mysteries and beauties of the trade was, that the purchase and sale of the sugar often gave double voyages. We do not send it to Italy, &c., as formerly, but to Brazil, China, &c. In England the whole duty had been withdrawn, because there was no consumption of the sugar

in the country; in France it was the same; and, in consequence of these countries withholding all duty from the importation of sugar, we have no trade now in the article, but with our neighbors of this continent, and to them we must resort. He thought the bill ought to pass, and would not trouble the Senate any farther.

Mr. BENTON inquired what was the value of refined sugar, and was answered fourteen cents. He then commented on the report of the committee, and stated that those who petitioned for an increase of drawback complained of their large families, and that they must stop unless assisted by Congress. Yet it seems they are doing a profitable business, and it is proposed to allow them a premium of one per cent., while no part of the attention of the committee was turned to the consumers of the country. The people of South America were to be furnished with the article at a cheaper rate, while those of the United States were to receive it at an enhanced price.

Mr. SMITH alluded to the state of things in the year 1794. At that time an excise existed on whiskey, loaf sugar, &c., and Congress thought proper to draw back excise on these articles, and allowed three cents on the exportation of every pound of loaf sugar. The duty on brown sugar was then one and a half cents. The consequence was, the exportation of loaf sugar increased to a great extent. In 1818 a new law was passed on the subject (of which Mr. S. read the second section, guarding against frauds on the revenue, &c.) and the trade to Cuba became so extensive, that more sugar was imported than could be consumed in the country. What was to be done? A drawback on foreign sugars was allowed, and soon the country was cleared of its superfluity, and a market opened for the sugars of Louisiana. Where was there any difference in the sugar, in its raw and refined state, except the difference that resulted from the industry employed? The fact was, steam was now used in refining sugar, and a state of perfection had been arrived at greatly beneficial, and enabling us to compete successfully with foreigners.

Mr. JOHNSTON, of Louisiana, did not attribute so much importance to this bill, as some gentlemen who had spoken. The principle of allowing a drawback on the exportation of articles, equal to the duty on the importation, was a plain one, and essential to the navigation and commerce of a country; and the principle had been extended to articles which had undergone some modification by manufacture. And, if the effect is to diversify our labor and increase the navigation, there can be no objection, unless it operate injuriously upon some other interest. At present the export of refined sugar does not interfere with any other branch of industry. It is very limited, not exceeding \$27,000, and not likely to be very greatly increased, while a duty is necessary to protect refined sugar in the home market. Mr. J. said he presumed the details of the bill had been attended to by the com-



mittee, and that they had allowed what in their judgment was a fair equivalent in drawback for the duty on the sugar. He could not enter into a minute calculation. If more was given than had been paid, it is a bounty which it is not the intention of Congress to allow. If less, it operates injuriously to the manufacturer. But, Mr. J. said, there was another view of this subject which had been adverted to, and which it became him to notice. It had been said by the advocates of the bill, that, if the country produced the raw material, it would accord with the principles of protection of domestic industry, to make the refined sugar, both for home consumption and for export, from that material. Mr. J. said it was true, that, at this moment, we did not make sugar equal to the consumption, and therefore it was not now necessary to guard the domestic article. But the period was approaching when we should be fully supplied; and when it was found that the country could furnish the raw material, he presumed the gentlemen, on their own principles, would protect the domestic article, by withholding the drawback on foreign sugar refined. He believed that in five years the production would equal the consumption; and, if the export of refined sugar should then be an object of any value, it would be proper to give the preference to our own material. He therefore proposed to limit the act to five years.

Mr. J. then moved to amend the bill by adding a proviso that it should expire at the end of five years.

Mr. BENTON said the amendment was perfectly parliamentary—were the effects of any proposed measure dubious, it was usual to fix a duration to its existence, that the Legislature may act again upon the subject in due time. The amendment lessened, but did not remove his objections. As to the fitness of Louisiana sugar, he considered it as likely to answer the purposes of the refiner, as the sugar of the West India Islands, where the atmosphere was as humid as in Louisiana. Perhaps the true reason was, that at present the sugar made in that State was all consumed in so short a period that it had not time to dry; but this will not always be the case. If a bounty was to be given on sugar, give it to the domestic and not the foreign; not that he thought more protection was needed, but he would prefer that course. While cut off from the competition of foreigners, by a duty of twelve cents on the pound, the sugar refiner exorbitantly demands a drawback of five cents the pound additional. This was a bold attempt at monopoly, and would soon operate as a direct bounty. He trusted the amendment would be adopted, and then that the bill would be rejected.

Mr. JOHNSTON modified his amendment to read, "Provided, That this act shall continue and be in force for five years."

Mr. SMITH, of Md., opposed the amendment, and stated that not one pound of sugar would be used if it was adopted. They had better

prohibit the importation of foreign sugar at once. Clayed and dry white sugar, he reiterated, were the proper materials for the refiner, and gentlemen might rely upon it he would never use the domestic article—it was unsuitable. Mr. S. replied to Mr. BENTON as to the 12 cents duty on imported sugar, and again rallied him on the provisions of the tariff law respecting lead, &c.

The amendment of Mr. JOHNSTON was rejected, yeas 16, noes 22.

Mr. DICKERSON said, that, for one, he had not canvassed the subject, and was not prepared to vote on the bill. He did, some years since, look into it, and he stated, to the best of his recollection, the quantity of brown sugar used in the manufacture. He was then of opinion that five cents was a fraction beyond the duty on the raw material. That was the case formerly, but he knew matters had changed since—the duty on sugar was somewhat higher. After the sugar was refined, however, there was a residue left, called treacle, or sugar-house molasses, which was of the very best kind, and paid no duty. It therefore required a nice calculation to know how much the refiner did pay for his raw material. Five cents, under his present impressions, was too much to return to him as drawback—it served as a bounty to use foreign materials. As we had gone into the system, he was willing to give back all that the refiner paid; but as at present informed, he should feel it his duty to vote against the bill, unless farther time was granted to obtain the necessary information.

[Here the debate closed for this day.]

WEDNESDAY, December 31.

#### *Drawback on Refined Sugar.*

The bill extending the drawback on sugar refined within the United States came up—the question being on ordering the bill to a third reading.

Mr. DICKERSON rose in opposition to the bill. He said he had had little time to examine its provisions—but he had had enough to convince himself that five cents was too great an amount of drawback to be allowed. Mr. D. then proceeded to canvass the report of a committee, made at the last session of Congress, and entered into a minute calculation respecting the cost of the raw material used in refining of sugar, and the amount of drawback proposed to be allowed, and what he thought ought to be allowed, as sufficient. He was of opinion that Congress had legislated upon the subject without the proper data to go upon, being governed by estimates of the refiners, made twenty years ago. An allowance of five cents drawback on the pound of refined sugar would leave a large balance in favor of the refiner, and the Government would be the loser to that amount—an amount averaging from 15 to 47 per cent. The improvements made in the manufacture were certainly worthy of notice; because a

DECEMBER, 1828.]

*Drawback on Refined Sugar.*

[SENATE.]

greater amount of refined sugar could be made now, from the same quantity of raw material, than formerly—perhaps one pound of refined sugar from one and a half pounds of the raw material; and he thought a strict inquiry ought to be instituted into the subject, that it might be known what quantity of the raw material was actually used in the manufacture. The officers of the customs were certainly entitled to a compensation for their trouble in attending to the duties required of them by the drawback system, which duties were various and complicated; and in his opinion four cents drawback was amply sufficient for the refiner, leaving a sum in the hands of the Government to defray the expenses to which he had referred. He was among those who were disposed to favor domestic manufactures; but when they were encouraged to a proper extent, he was not willing to go farther. He never could consent to the payment of a bounty to enable them to send the proceeds of their industry abroad. As the allowance of a drawback on sugar refined was a system long established, he was willing to make a fair allowance to the refiner; but, if the system were now to be originated, he doubted if Congress would establish the policy: for himself, he was free to say, he should be diametrically opposed to it. There was certainly danger of fraud in the system, and he instanced the article of snuff to show that the Government had heretofore been imposed upon. He believed he might say the same of spirits, though not to so great an extent. He believed there was less danger of fraud on the exportation of refined sugar than any other article on which a drawback was allowed—but yet there was fraud. He believed, too, that, so long as the system was continued, the consumption of the domestic material in the manufacture would never take place; it was, in his opinion, quite as good as the foreign: for he knew of no law of nature that operated against it. Domestic hemp would never be used in the manufacture of cordage, if there was a drawback on the foreign article when exported; he might say the same of nails. If there was no sugar produced in the country, then it would be proper to encourage the importation of the foreign article, and give a drawback on its exportation, to the amount of the duty on importation.

Mr. SMITH, of Maryland, gave great credit to the gentleman from New Jersey for the attention he had paid to the subject; he had certainly been at great pains to inform himself, though the case was a very plain one. He had hoped more from the intelligence of his friend, however, than the assertion that a pound of refined sugar could be made from a pound and a half of the raw material. What was the object of refining? Why, to take away all the impurities from the article to be refined; and it was beyond his comprehension how the thing could be done, unless a good portion of the impurities were suffered to remain. The

fact was, however, that the allowance of the gentleman to the pound of refined sugar was not enough—it could not be made of so small a quantity. With regard to the expenses of the drawback system, the officer was entitled to such fees for his trouble as sufficiently compensated him, without taking from the Government. He well recollected the fraud on snuff; but when it was discovered, the drawback was withheld. There might be some fraud so far as related to spirits; but the laws were very strict; and he who committed fraud, must commit perjury also. The gentleman from New Jersey admitted there was less fraud, and less chance of fraud, on the article of refined sugar; and in this admission, he overthrew the whole of his argument. Mr. S. then rebutted the arguments advanced by Mr. DICKERSON relative to hemp, cordage, iron, &c., and observed that the tax on hemp was most abominable; that it tended greatly to the injury of navigation, destroying a very considerable trade formerly carried on with Cuba, &c., and then proceeded, with great vehemence, to defend the bill. He stated what had formerly been the practice of Congress; that it was to encourage navigation and commerce, and to prepare a hardy race of men to fight the battles of the country. The present policy of the country tended to enfeeble it; and the great object of the statesmen of the present day, seemed to be to compete with England in the manufacture of shovels, nails, &c. The gentleman had been a day and a night making his calculations; he showed that the refiner had a profit of 15½ cents on the Muscovado sugar, and 47 on the clayed; and this was the amount of his calculations. He would not have taken the trouble to make them for the whole of the profit. He considered it trifling with the Senate. And how had the gentleman been able to arrive at his conclusions? Why, by denying the statements of the refiners, though he knew no more of the subject than he (Mr. SMITH) did. Mr. S. then proceeded to answer some of the statements made yesterday; stated that he had also examined the statistics of the country; and said he was fully of opinion that, if the bill passed, where 84,000 pounds of sugar were now exported, 100,000 pounds would be, in the same space of time. With regard to the constituents of the gentleman from Missouri, their share of the additional expense, should the bill pass, would be about four dollars, to be divided among the whole State; for the whole average amount of the exportation would only be 1,007 dollars. As to domestic sugar, 70,000 pounds only were produced per annum, whereas 76,000,000 pounds were imported, valued at five millions of dollars. He was tired of the subject; he had been drawn into the discussion of it against his will; and thought the matter was too clear to admit of any farther argument.

Mr. BENTON in reply to Mr. SMITH, asked how many sugar manufacturers there were in

the country? (He was answered, about one hundred.) If four dollars, then, was the amount to be paid by Missouri, and that of the Union only 1,007 dollars, and if the number of manufacturers was only one hundred, to receive ten dollars additional bounty each by the bill, he thought Congress had been employed on a very insignificant subject. Was it possible that the two Houses of Congress had been occupied for nearly two weeks, at an expense of several thousand dollars, to give a thousand dollars to a hundred persons? Is it true that the Senator from Maryland has been seriously at work in this momentous business? Truly the mountain had been in labor, and brought forth a mouse—a drowned mouse. Did the manufacturers of sugar, who had a capital of thousands, require an act of Congress to allow them this paltry sum? But the manufacturers of this sugar had the exclusive supply of the market at this moment; every man, woman, and child in the country were laid at their feet: and, not content with the ten dollars, they require a bounty to go forth to trade with foreign nations. They tell us, too, that theirs is an increasing and profitable business; if profitable it must be increasing. And yet they apply for seven per cent. additional profit, to be taken from the pockets of the people. What was the value of interest in the country? What the profits of the farmer and planter? Few of them realize three per cent. He presumed the profits of the sugar refiner were now 6 per cent.; give them what they ask, and it would be 18. He was astonished at the manner in which this bill had gone through. But the statement of the gentleman from Maryland to-day had placed it on a different footing, and made it appear as an object of legislation truly contemptible. What becomes of the navigating interest?

The object of the bill was really to give one cent more on refined sugar than formerly. Estimate the consumption of sugar in the United States, and add 1 per cent., and you get at the effects of the bill upon the consumers of the country. The refiners will not sell to the consumers of this country unless they can get the one per cent.; they will sooner take it out of the country, and receive their bounty for so doing.

Mr. CHANDLER said, that he was unaware of any injury or fraud that could possibly result to the country from the passage of the bill, unless the amount of drawback exceeded the importation of the article. He would, therefore, offer an amendment to the bill, to be added as a proviso at the end, as follows:

“*Provided*, That this act shall cease to be in force so soon as the exports of sugar shall be equal to the imports of the same article.”

Mr. TAZEWELL did not rise to discuss the bill, but to make the inquiry, whether a drawback was allowed by the laws of the United States, on any other article but sugar, where it had

changed its form? Another question he would put, was, whether any drawback was ever allowed on refined sugar, until there was an excise duty laid upon it? The general principle of the Government, from its foundation, had been, he believed, to allow a drawback on articles exported in the same form and clothing in which they were imported, but, if they had undergone any change in these respects, then no drawback was allowed.

[Mr. SMITH noticed the article of cloths, which was allowed to be exported, and Mr. SILSBEE that of handkerchiefs.]

Mr. TAZEWELL. They are not changed, but cut. So early as 1789, a drawback of one cent was allowed on sugar, which was increased from time to time. There was then no internal tax on the article. In 1794, an excise of four cents was laid on refined sugar, with the understanding, that, if exported, the amount of the excise should be drawn back. But the drawback was allowed solely on account of the excise—there was no other reason assigned for it. So true was this, that both were repealed together, in the year 1818. He rose merely for information. If correct in his ideas, the drawback was never allowed on the cost of the brown sugar, but solely on account of excise. He entirely concurred with the gentleman from New Jersey, that, if the subject was to be commenced anew, the drawback system would be abandoned altogether.

Mr. SMITH said, the first excise was laid in 1794. The same law authorized a drawback of the excise. In 1800, another excise was laid by law, with the same provision as to drawback. This law was repealed in 1817, and with it was repealed the drawback, though this was not intended: for the excise alone was what Congress meant to repeal. In 1818, finding that they had repealed the drawback with the excise, another law was passed on the subject, by which a drawback was allowed of two pounds raw for one of refined sugar.

Mr. WOODBURY replied to Mr. TAZEWELL, and assured him that the drawback did not originate with the excise. In 1797, the Legislature proceeded to allow a drawback, on sugar refined, (extracts from which law Mr. W. read,) and one cent was allowed as an additional drawback on account of the increased duty on sugar exacted by that law. The system began on the theory that the drawback should be equal to the duty, and had been followed up to this time. He did not believe in the fraud on spirits—the law allowing its exportation with benefit of drawback was abolished on account of misapprehension, and he wished to set the merchants of the country right on this subject. Mr. W. then proceeded to reply to some of the arguments of Mr. BENTON; denied that the refiners would receive the large profit which he had named; explained in what their capital did really consist; and denied that their profit was more than two per cent.

He then alluded to the advantages of the

JANUARY, 1829.]

*The Sinking Fund, &c.*

[SENATE.]

drawback system; the great desire there was for the passage of the bill, that our merchants might compete with foreigners to advantage in the South American and Chinese markets, and alleged as a reason that these were the only markets now left us, on account of the liberal policy pursued by France, England, &c. Though the exportation was small at present, he had no doubt of its increase to the amount stated by the Senator from Maryland. He denied and repelled the statements and arguments of the Senator from New Jersey, and accused him of bottoming his calculations on the duties exacted by former tariffs, and not by the tariff law of the last session.

The amendment submitted by Mr. CHANDLER was then agreed to; and the amendment was ordered to be engrossed, and the bill read a third time, by the following vote:

YEAS.—Messrs. Barton, Bell, Boulogny, Burnet, Chandler, Chase, Foot, Knight, Marks, McKinley, McLane, Noble, Ridgely, Robbins, Ruggles, Sanford, Seymour, Silbee, Smith of Md., Thomas, Willey, Woodbury—22.

NAYS.—Messrs. Barnard, Benton, Berrien, Dickerson, Hayne, Hendricks, Iredell, Johnson of Kentucky, Kane, Prince, Rowan, Tazewell, Tyler, White, Williams—15.

TUESDAY, January 6, 1829.

*The Sinking Fund, &c.*

The Senate proceeded to the consideration of the following resolutions, heretofore submitted by Mr. BENTON, and made the special order for to-day:

"Resolved, That the 5th section of the Sinking Fund act, of 1817, ought to be so amended as to authorize the commissioners of that fund to make purchase of the public debt, at its current market price, whenever, in their opinion, such purchases can be made beneficially for the interest of the United States, and consistently with existing engagements.

"2. That the 4th section of the same act, which authorizes a retention of two millions of surplus revenue in the Treasury, ought to be repealed; and that the first section of the Sinking Fund act of 1790, which directs the whole of the surplus money in the Treasury to be applied to the payment of the public debt, ought to be revived and continued in force.

"3. That the Bank of the United States ought to be required to make a compensation to the people of the United States, for the use of the balances of public money on its hands.

"4. That a public debt is a public burden, and that the present debt of the United States is a burden upon the people of the United States to the amount of more than fifteen millions of dollars per annum; from which they ought to be relieved as soon as possible, and may be relieved in four years, by a "timely" and "judicious" application of the means within the power of Congress.

"5. That an abolition of duties, to the amount of the ten millions of dollars now annually levied on account of the public debt, ought to be made as soon as that debt is paid, and may be made, according to the present indications of the revenue, with-

out diminishing the protection due to any branch of domestic manufactures, and with manifest advantage to the agriculture and commerce of the country.

"6. That the Committee on Finance be directed to prepare and bring in a bill to carry into effect the objects of the first and second of these resolutions."

Mr. BENTON explained their nature and object, and advocated their adoption, in a speech of about two hours, in which he entered very fully into the consideration of each resolution, separately, and enforced the necessity and advantage of agreeing to them all.

The first resolution, he said, related to the 5th section of the Sinking Fund act of 1817, and proposed an amendment to it. This proposal implied a defect in the section as it now stood, and such was the fact. The section, in its present form, confers a limited authority upon the commissioners of that fund to make purchases of the public debt at certain fixed rates, the three per cents at 65 per cent. and other stocks at par; the amendment would give a discretionary authority to the commissioners to make purchases of the same debt at its current market price, whenever, in their opinion, such purchases could be made beneficially for the public interest, and without prejudice to existing engagements. The evil, or mischief, of the section, as it now stood, was, that the three per cent. stock (about 18½ millions) could never be paid off; and that about eight millions of other stocks, for the payment of which the money would be lying in the Treasury in 1831-'32, could not be paid off until 1834-'35. Mr. B. verified these statements by references to laws and facts, and took it upon himself to affirm, that there was no way to prevent an accumulation of near twenty millions of dollars in the Treasury, in the years 1832-'33, to lie there idle, or what was still worse, to be diverted to some subordinate object, while public debt to that amount was unpaid and drawing interest, but to make the amendment which he proposed. The advantage of paying our debt, when we had the money on hand, was too obvious to be insisted upon. Another advantage would be in reducing the price of the three per cent. stock to something nearer the true value of money than what it now bore.

The act of 1817 fixed the value of this stock at 65 per cent., which seems high enough for stock worth but 8 per cent.; but it now ranges at from 80 to 85, with no prospect of falling, while it preserves the character of perpetuity which it now has. This character is abhorrent to American notions of public debt, but it is a favorite with money lenders and stock dealers, and while it continues, the price of the stock will continue out of all fair proportion to the interest and common uses of money. Destroy this character of perpetuity, by adopting the amendment, and this stock will immediately fall, if not to 65, at least to something con-

siderably below 85; and a portion of the public debt, which is now counted at 18½ millions, but which can be purchased in market for about 11 millions, will fall to about 9 millions, and save to the public the difference between that sum and eleven millions. Mr. B. could see no possible objection to an amendment fraught with such manifest advantage, except in the apprehension that the Commissioners of the Sinking Fund could not be safely trusted with the discretionary power which it gives them. This he considered as amounting to no objection at all. The discretion was but little, and it was to be vested in a board of eminent men.

It was a discretion to purchase, or not to purchase, about twenty millions of debt, at the current market price. It was a discretion to apply some public money to the payment of the public debt, rather than to let the money lie idle, or be wasted, and the debt run on, carrying interest. This, he thought, vested but little discretion, and such as might be trusted, without danger, to our Commissioners. Who were these Commissioners? Men of the first distinction and obliged to be of the first distinction, of any in the Union. They were Commissioners by virtue of their offices, and these offices among the highest in the country—the Vice President of the United States, the Chief Justice of the Supreme Court, the Secretary of the Treasury, and the Attorney-General. A discretion to purchase the public debt at its market price has always belonged to the Commissioners of the British Sinking Fund, and has never been abused by them. They have exercised it for a hundred years, and over a debt, growing up in that time, from about the present size of our own, to above four thousand millions of dollars; and if this power could be exercised by them so long, and over an amount of debt so vast, and still without abuse, can it be seriously apprehended that there is danger in trusting the like power to our Commissioners for the four brief years which the debt has to last, and over the little remnant of it to which their power would be applicable?

Mr. B. then took up his second resolution, which proposes to repeal the fourth section of the Sinking Fund Act of 1818, and to revive the first section of the Sinking Fund Act of 1790. He stated the defect of the act of 1817 to be in the authority, as it had been construed at the Treasury, to retain two millions of dollars over and above the unapplied balances of appropriations on hand; and the virtue of the act of 1790, in directing all the surplus money on hand, over and above the appropriations, to be applied to the payment of the public debt. The advantage of the section to be revived over the one to be repealed, was clear and indisputable. The argument was contained in the stating of the proposition, and the resolution would have seemed to be free from the possibility of objection, if it had not been ob-

jected to when he offered it at the last session. The objection then made was founded upon the supposed necessity of keeping a reserve of two millions on hand to meet the deficiencies of revenue which might arise from disasters to the commerce from which it was derived. This objection is plausible, and respectably supported; but it is unfounded and unsolid, and vanishes upon examination. In the first place, there is no necessity for this reserve of two millions, because there is always an unapplied balance of several millions in the Treasury. These balances are seldom less than three, often as high as six millions. They were stated, in the last Treasury Report, at \$5,120,000, on the first day of the present year. These balances result from the nature of daily receipts and daily expenditures, the receipts always preceding the expenditures, by some months. They keep several millions perpetually on hand; then why authorize a retention of two millions more? The Secretary of the Treasury says it has not been retained. I answer, this proves that there is no necessity for an authority to retain it. He says, the authority is discretionary. I answer, there is no necessity for the discretion; that it is an authority which cannot be used for the benefit of the public, and may be used to their prejudice. An authority to retain two millions of surplus money in the Treasury, is an authority to make a gratuitous loan of it to the bank which has the keeping of it, and where it may be used in creating an interest in elections, or at the renewal of a charter adverse to the interests of the people. As a precaution against deficiencies of revenue occasioned by disasters to commerce, the objection is authoritatively condemned by the voice of experience, and the history of our own country for seven and twenty years. These twenty-seven years cover a period of unexampled disasters to commerce—from 1790 to 1817; during which the act of 1790 was in force, and that of 1817, with its precautionary reserve, was unheard of; and during which there was no complaint for want of these two millions. These twenty-seven years covered the period of the mad attacks of the French revolutionary Governments on commerce; the period of the British Orders in Council; of the ruinous decrees of Berlin and Milan; the period of our own embargo, and of our war with England. Such a period of commercial disaster can never be expected again; yet we went through it without this precautionary reserve, and we can certainly make out in future without it. The fact is, the construction at the Treasury is erroneous; instead of authorizing a retention of two millions *over and above* the unapplied balances, it was intended to limit the money kept to meet these balances to two millions of dollars.

The third resolution was next taken up by Mr. B. and read by him. It imported that the Bank of the United States ought to make compensation to the people of the United States,

JANUARY, 1829.]

*The Sinking Fund, &c.*

[SENATE.]

for the use of the balances of public money on its hands. Before entering upon the consideration of the main question presented in this resolution, Mr. B. said there were two preliminary inquiries necessary to be answered, namely, *first*, whether, in point of fact, there were any such balances in the Bank, and *secondly*, whether, in point of law, the people of the United States have a right to require compensation from the Bank for the use of them? Mr. B. held the affirmative of both these inquiries, and would prove his answer to the first of them, by referring to the Treasury report of the last session, made on his own call, showing an average annual amount of public money in the hands of the Bank, from 1817 to the date of the report, of \$3,554,756 50; and he would prove his answer to the second of them by reading, as he did read, the 16th section of the Bank charter, the first clause of which directed the Secretary of the Treasury to make deposits of the public money in this Bank; and the second authorized him to *remove them at any time that he thought proper*. This was decisive. The right to remove the deposits at pleasure, included the right to make terms for letting them remain; and this was precisely what the resolution proposed to do.

Mr. B. then spoke at considerable length in favor of the fairness, the equity, and the reasonableness of his proposition; and rested the public claim for the compensation he required, on the following prominent facts and powerful considerations:

1. That these balances in Bank were *great*, being an annual average amount of above three and a half millions of dollars.

2. That they were *permanent*, having remained in Bank twelve years, and likely to remain there the eight years longer which the charter had to run.

3. That they were virtually *Bank capital*, and available, as such, for loans or issues of notes.

4. That they required no *idle reserve* of gold and silver to be kept in Bank to meet them, being themselves payable in the notes of the Bank, though deposited in gold and silver.

5. That the *profit* to the Bank from their use must have been great, and may have been equal to the highest rate of Bank interest upon the greatest amount of notes issuable upon a capital of three and a half millions of dollars.

6. That the *loss* to the people of the United States, while paying interest on the public debt, and receiving no interest for the use of these balances in Bank, has been six per cent. per annum, for twelve years, on \$3,554,756 50, and may be at the same rate for eight years more, if this resolution is not adopted.

Upon these great facts and considerations, Mr. B. rested his argument of reason, justice, and equity. But he had another argument of authority, example, and precedent; and as this kind of argument always had the greatest weight against the rights and liberties

of the people, he would now try the virtue of one in favor of the people. He alluded to what had been done in England, where the Bank, after baffling Mr. Burke for twenty years, was at last brought to terms by Mr. Pitt, and compelled to make compensation for the use of the Government deposits.

For the sake of accuracy in his statements, Mr. B. now had recourse to his books, and took up some volumes of British Parliamentary debates, and read extracts from a report of the Finance Committee of the House of Commons, on the subject of Government balances in the Bank of England; also extracts from the correspondence of the Chancellor of the Exchequer and the Governor of the Bank, in relation to these balances; also extracts from a debate in the House of Commons, upon the ratification of the arrangement to which that correspondence led. From these extracts it appeared that the committee of the House ascertained that the average annual amount of Government balances in the hands of the Bank, was about ten millions sterling; that the Bank derived great profit from them; and the committee held it to be right and reasonable that some part of these profits ought to go to the public, to whom the capital belonged, which produced them. The House of Commons was of the same opinion; the Chancellor of the Exchequer also; and of the terms offered by the Bank, either to pay about seven hundred and fifty thousand dollars annually for the use of these balances, or to make a loan of about fifteen millions of dollars without interest, the latter was accepted by the Chancellor, and finally ratified by Parliament, after a debate, in which the sole point was the inadequacy of the compensation. Mr. B. admitted that there was discouragement, as well as encouragement, for him in this example. He was discouraged by seeing that Mr. Burke was baffled for twenty years, and died before the Bank was brought to terms; but he was encouraged by seeing that she was brought to terms at last, though it took a Chancellor of the Exchequer and Prime Minister of England—a Pitt, and the son of a Pitt—to bring her to.

Mr. B. took up his fourth resolution, and read it: "That a public debt is a public burthen; that the present debt of the United States is a burthen upon the people of the United States, to the amount of more than fifteen millions of dollars per annum; that the people ought to be relieved from this burthen as soon as possible, and might be relieved from it in four years, by a *timely* and *judicious* application of the means in the power of Congress."

He would not waste time upon the general proposition with which the resolution set out, although he knew there were many who disputed that proposition; he would go to the clause which asserted the annual amount of burthen which this debt imposed upon the people to exceed fifteen millions of dollars, and

prove it by a statement as brief as it would be plain and intelligible. The annual amount paid on the debt for the last four years averaged about twelve millions of dollars, and he hoped that the payments for the next four would rather exceed than fall short of the same average. This would be admitted to be a burthen to the amount of twelve millions per annum, by all who admitted that taxes were burthens. In the next place, these twelve millions were levied upon the consumption of foreign goods, the averaged duty on which was now fifty per cent., upon which fifty the retail merchant had his profit, as well as upon the cost of the article. It was all cost to him. This profit might average 83½ per cent., especially where the article went through the hands of several sellers. This advance on twelve millions would be four millions, which, together, made sixteen millions, and sustains the words of the resolution. But this is not all. A farther expense attends the collection of these duties, to the amount of about nine hundred thousand dollars per annum more, in salaries, fees, and commissions to the revenue officers. This also comes out of the pockets of the people, and contributes to swell far above the statement in the resolution, the annual burthen which the people bear on account of the public debt.

That this debt can be paid off in four years by a "*timely*" and "*judicious*" application of the means in the power of Congress, was a proposition susceptible of the clearest demonstration. Its nominal amount was fifty-eight millions, its real amount about forty-nine millions, after deducting seven millions for stock in the United States Bank, and two millions more for the difference between the nominal amount, and the market price of the 8 per cent. stock. The adoption of the first resolution offered by Mr. B. would probably sink the market price of this stock one or two millions lower by destroying its character of perpetuity, and then the actual debt would be but forty-seven millions. But, even at forty-three millions, it can be paid off in four years, by applying the twelve millions which will go to the principal and interest, to the principal alone, and raising the interest from accelerated sales of the public lands. This was what was intended by a "*timely*" and "*judicious*" application of the means in the power of Congress; words which were borrowed from the first Message of President Washington to Congress, and enforced by the first and ablest of all the Secretaries of the Treasury, but which had never yet been acted upon by Congress. At this part of his argument, Mr. B. took the following bold positions:

1. That one hundred millions of acres of land sold, near forty years ago, at an average of twenty cents per acre, as recommended by General Hamilton, would have been worth sixty millions of dollars to the people, by extinguishing twenty millions of debt, and stopping the payment of forty millions in interest.

2. That all the land sold by the Federal Government has not been worth one cent to the people, the amount received from sales being swallowed up in expenses, or lost in interest upon the capital of land unsold, while paying interest upon the capital of the debt unpaid.

3. That the sale of the eighty millions of land to which his graduation bill was applicable, would raise, at an average of twenty-five cents per acre, twenty millions of dollars in four years, the one-half of which would pay the interest on the public debt, and the other half would give to all the neglected States their proportionate shares of the amount expended in the favored States on works of internal improvement.

Mr. B.'s fifth resolution related to the abolition of duties, and imported that duties to the amount of the ten millions of dollars now annually levied on account of the public debt, ought to be abolished as soon as that debt was paid, and might be abolished, according to the present indications of the revenue, without diminishing the protection due to any branch of domestic industry, and with great advantage to the agriculture and commerce of the country.

Mr. B. went on to say, that this resolution presented a great question to the consideration of the Senate and American people. It was a question in the decision of which, above all others, the vote of the Representative ought to be governed by the will of the constituent. It was a question to the consideration of which the attention of the people ought to be worked up, and worked up in time to know what their Representatives were about, before a final decision might be made to their prejudice. With this view, he had brought forward the question at the last session of Congress; with this view he brought it forward now; and for the same purpose he should bring it forward at the next session, if his resolution was not adopted at the present one.

The first clause of the resolution asserts that duties ought to be abolished to the amount of ten millions of dollars, the instant the public debt is paid off. I know there are many who think differently, who are of opinion that the duties ought to be kept up, and the amount expended by Congress in works of internal improvement; but my mind is clear and decisive in favor of the abolition. There will be enough for internal improvement without these ten millions, which now go, not to that object, but to the public debt. I am for the abolition, because I am opposed to all taxation not required for the necessary support of the Government. I am against raising money by taxes, either for accumulation in the vaults of the Treasury, or for repartition among the people. What is attempted to be kept in the Treasury would be wasted; a partition could never be fairly made; a majority of the payers would never get back their own. The pockets of the people are the best treasuries which the Government can have for its spare revenues. They

JANUARY, 1829.]

*The Sinking Fund, &c.*

[SENATE.]

are the safest; for every citizen is the keeper of his own. They are the cheapest, for these keepers have no salaries; they are the most beneficial, for they are the only treasuries of which the keeper may always use the contents without blame, and with profit to himself and the country.

I am for the abolition, because the sum is great in itself, and raised at still greater expense to the people. The levy of ten millions for the Government cost upwards of fifteen millions to the people. It is a mistake of the present day, founded upon what was fact thirty years ago, to suppose that taxation by duties is the cheapest way of levying money from the people. This was true when the average duties were seven and a half per cent., and when the addition of that amount to the value of the article made no sensible addition to its cost. But all this is now changed. The average duties are now 50 per cent., and this adds one-half to the cost of the article; the merchant's profit is thirty-three and a third per cent. on this duty of 50, and that adds a third more to it. Fees, salaries, and commissions, are then paid besides to the revenue officers to the annual amount of near nine hundred thousand dollars more. The effect of all these per cents, fees, and salaries, is, that it now costs the people nearly two dollars to raise one dollar for the Government, and this load is increased upon some, by the fact that smugglers, and dealers with smugglers, pay nothing. A levy of twelve millions for the public debt, now occasions a levy of more than fifteen, and nearly twenty millions upon the people; a rate of expense for collection out of all proportion to the revenue raised, exceeded in no country upon earth but in England, and from which the people, in the language of the resolution, ought to be relieved as soon as possible.

I am for the abolition, because the wielding of ten millions of surplus revenue would dangerously increase the patronage of the Federal Government. This sum is now mortgaged to the payment of the public debt, and its application to that object being fixed and regular, involves the exercise of but little patronage. Released from that mortgage, it would be applicable to innumerable objects, and subject to the annual appropriation by Congress. Its distribution would attract all eyes, and excite universal cupidity. It would draw deputations from cities, towns, and villages, from companies and corporations, from counties, States, and districts, to the feet of the Federal Government, all clamorous for their share of the spoil, or neglecting their own business to obtain it, and all becoming less independent in proportion as they received it—like the degenerate Romans, who ceased to be free when they began to look to the public granaries, instead of their own cribs, for a supply of corn.

I am for the abolition, because an annual scramble on the floors of Congress for ten millions of dollars, would fill our halls with bar-

gains, combinations, intrigue, and corruption. The effect would be inevitable. Help my State to half a million, and I will help yours to another half. A majority of the members might meet beforehand, and divide the whole among their own States. They might do worse. They might insert appropriations for roads and canals, in States whose Representatives denied the constitutionality of such appropriations, and thus subject them to the censure of their constituents, for not taking a share while it was going. In this way, the delegation of a State might be rendered obnoxious to their constituents, and broken down at home by a manœuvre here. Is this fancy, or is it fact? exclaimed Mr. B. It is fact, and the history of our legislation proves it. Within the last three years the manœuvre was tried. A bill came up from the House of Representatives with appropriations for internal improvement for a majority of the States, including some whose delegations could not vote for such objects. The bill passed through this chamber, and became a law; but the design against the members failed. A kindly feeling prevailed. The yeas and nays were not called. The bill went through without noise, and the obnoxious voters were not pointed out to their constituents. This may be attempted again, upon a greater scale, and with a more determined intent, if ten millions are to be annually divided out.

I am for the abolition, because the annual division of ten millions of dollars would fill this Union with discord and violence. The division of money and property is the fruitful source of discord throughout the world. It is the bane of partnerships, the rock on which the peace of families is split, and the signal for strife and contention amongst confederates and conquerors. So sung the poet of nature:

—“Friends now fast sworn,  
Whose double bosoms seem but one heart to bear,  
Who twine, as 'twere, in love inseparable,  
Shall, within this hour, upon dissension of a doit,  
Break out to bitterest enmity.”

Yes, break out to bitterest enmity upon dissension of a farthing! With how much greater bitterness, then, when the dissension is for millions, when the parties are whole communities, their passions inflamed by association, no common superior to decide between them, an individual shame lost in the mass of undistinguished multitudes! The last thing that any friend to the peace, the harmony, the stability of the Union, would wish to see, would be an annual scramble on the floor of Congress for ten millions of dollars. We shall have heart-burnings enough in distributing the two or three millions of surplus revenue which will remain without these ten millions, and in scrambling for the countless millions of the public land.

I am for the abolition, because it will be the means of restoring the harmony of this Union,



now greatly impaired by a tariff, which sits hard upon the navigating and planting interests of the country. An abolition of ten millions of duties will relieve these interests, without injuring any other; and thus an angry question will drop from our discussions, and every cloud of discontent will vanish from our horizon.

The last branch of this resolution declares, that this abolition may be made, according to present indications of the revenue, without detriment to domestic industry, and with great advantage to agriculture and commerce. On this point my remarks will be few and brief. They are abridged, and almost superseded by the labors of the last session. This subject, upon a resolution of my own, was referred to the Committee of Finance twelve months ago. That committee reported a list of thirty-two articles, estimated to yield a revenue of seven and a quarter millions, on which the duties might be repealed without injury to domestic industry; seven other articles, whose product could not be then ascertained, and six more on which the drawback for the last year exceeded the revenue, but which, in a run of several years, yield a considerable sum. This makes forty-five articles, and to these I think about fifteen more might be added. But I omit these fifteen. I take the forty-five\* reported by the committee, and say that they will yield the ten millions in four years from this time. They yield a million and a half more now than was estimated by the committee. Three of them alone exceed that estimate by eight hundred and thirty thousand dollars. But this is a detail, and a subordinate inquiry. If we agree in the great principle of abolition, there will be no balk about a few articles, or a few thousands of dollars more or less. The benefit to agriculture and commerce would be great and immediate from this abolition. Free trade is their delight and element, and this abolition of duties would set the half of our trade free. A few examples will illustrate its benefit. We have a growing trade with France, of which the chief articles on our part are cotton and tobacco; on her part, silks and wines. She took from us last year seventy millions of pounds of cotton, and thirty thousand hogsheads of tobacco. An abolition of duties on silks and wines will increase our purchases of those articles, and her purchases of our cotton and tobacco, and require a great increase of ships for their transportation. The same of the West India trade. We have a great trade with these islands; the chief articles on our part, beef, pork, flour, corn, corn meal, whiskey, bacon, and lumber; and hers, coffee and

specie, of which they sent us last year fifty millions of pounds of the former, and two millions two hundred thousand dollars of the latter. Our duty on coffee is five cents a pound, more than half of the first cost of the article. Abolish it, and we shall take double the quantity of coffee, and greatly increase our exports of provisions and imports of specie.

Mr. B. had now finished his exposition of the reasons and policy of his resolutions. He had spoken to them all at once, but they could be discussed separately, on the motion of any Senator; the vote, of course, would be on each separate resolution.

Mr. SMITH, of Maryland, moved the reference of the first resolution to the Committee of Finance. He said, that the subject was one that required much consideration; that he had applied some of his leisure hours to satisfy himself on the subject; that he had not yet perfected his inquiries. So far as he had gone had convinced him that the Senator (Mr. BENTON) was mistaken. If referred to the committee, the subject would be fully investigated, and he believed it would be shown, that there would be of debt, (redeemable at the pleasure of the Government,) sufficient, with the interest annually payable, to absorb the whole of the ten millions of dollars which the Commissioners of the Sinking Fund were authorized by law to apply annually to the payment of the principal and interest of the public debt. He had, he said, completed his inquiry for the years 1829 and 1830, and could state that there were of six and five per cent., redeemable during those years, a sum which, with the interest accruing for those years, would amount to \$22,878,639; the payment to be made for those two years, agreeably to law, was twenty millions, which would leave a surplus, payable in 1831, of \$2,878,639. He trusted, he said, that he had satisfied the Senate, that, during the years 1829 and 1830, there were of stocks redeemable, and of interest payable, an amount amply sufficient to satisfy the Commissioners of the Sinking Fund for those two years. He added, that he was not yet prepared to give a statement respecting the years 1831 and 1832, but if the resolution should be committed, he hoped, and believed, that he would be able to show that, without any authority to purchase, the whole or nearly the whole of the 6, 5, and 4½ per cent. debts, (Bank debt excepted,) might be paid off in 1832.

Mr. S. concluded by offering the following as an amendment to the first clause of the resolution:

Strike out the first clause, and insert—

*Resolved*, That the Committee on Finance be instructed to inquire into the expediency of authorizing the Commissioners of the Sinking Fund to purchase, at its current market price, the public debt, whenever, in their opinion, such purchases can be made beneficially for the interests of the United States, and consistently with existing engagements."

\* Salt, coffee, teas, linens, wines, silks, cocoas, almonds, currants, prunes, figs, raisins, mace, cloves, nutmegs, cinnamon, cassia, pepper, pimento, bristles, Spanish brown, ochre, camphor, Cayenne pepper, ginger, olive oil, olives, alum, corks, quicksilver, opium, capers, worsted stuffs, nankeens, bolting cloths, quills, black bottles, demijohns, thread and silk lace, cambrics, lawns, Cashmere shawls, gauze, ribbons, straw mats, and Canton crepe.

JANUARY, 1829.]

Georgia and the United States.

[SENATE.]

After a few words from Mr. BENTON, by way of rejoinder, the resolutions were ordered to lie on the table.

MONDAY, January 12.

*Protest of the Legislature of Georgia against the Tariff Act of 1828.*

The Chair communicated a letter from the Governor of the State of Georgia, transmitting the following Protest of the Legislature of that State :

"STATE OF GEORGIA.

EXECUTIVE DEPARTMENT,  
*Milledgeville, December 30th, 1828.*

Sir: The enclosed protest is transmitted to you, to be laid before the Senate of the United States.

I am, sir, your obedient servant,

JOHN FORSYTH.

HON. JOHN C. CALHOUN,  
*Vice President of the United States."*

"From a painful conviction that a manifestation of the public sentiment, in the most imposing and impressive form, is called for by the present agitated state of the Southern section of the Union, the General Assembly of the State of Georgia have deemed it their duty to adopt the novel expedient of addressing, in the name of the State, the Senate of the Congress of the United States.

"In her sovereign character, the State of Georgia protests against the act of the last session of Congress, entitled 'An act in alteration of the several acts imposing duties on imports,' as deceptive in its title, fraudulent in its pretexts, oppressive in its exactions, partial and unjust in its operations, unconstitutional in its well-known objects, ruinous to commerce and agriculture—to secure a hateful monopoly to a combination of importunate manufacturers.

"Demanding the repeal of an act which has already disturbed the Union and endangered the public tranquillity, weakened the confidence of whole States in the Federal Government, and diminished the affection of large masses of the people to the Union itself, and the abandonment of the degrading system which considers the people as incapable of wisely directing their own enterprise; which sets up the servants of the people in Congress as the exclusive judges of what pursuits are most advantageous and suitable for those by whom they were elected, the State of Georgia expects that, in perpetual testimony thereof, the deliberate and solemn expression of her opinion will be carefully preserved among the archives of the Senate; and in justification of her character to the present generation, and to posterity, if, unfortunately, Congress, disregarding the protest, and continuing to pervert powers granted for clearly defined and well-understood purposes, to effectuate objects never intended by the great parties by whom the constitution was framed, to be entrusted to the controlling guardianship of the Federal Government, should render necessary measures of a decisive character, for the protection

of the people of the State, and the vindication of the Constitution of the United States.

IRBY HUDSON,

*Speaker of the House of Representatives.*

THOMAS STOCKS,

*President of the Senate.*

JOHN FORSYTH, *Governor."*

Mr. BERRIEN said, that the annunciation made from the Chair, imposed a duty on his colleague and himself, which, with his assent, he would perform, by giving a direction, with the sanction of the Senate, to the document which had been just announced. I am not willing, sir, said Mr. B., to see an act so grave and interesting in its character, pass away with those mere every day events which are forgotten almost in the instant of their occurrence. In order, therefore, that it may be distinctly presented to the notice of the Senate, before I submit the motion which it calls for, I will state its purport, and avail myself of the occasion to make a very brief remark.

That document, sir, of which an official copy has been transmitted to my colleague and myself, is the protest of the State of Georgia, made through her constitutional organs, to this assembly of the Representatives of States, against the "act in alteration of the several acts laying duties on imports," passed at the late session of the Congress of the United States. In her sovereign character, as one of the original members of this Confederacy, by whom this Government was called into existence, that State protests against this act, on the several grounds which are specifically set forth, in that instrument, which is attested by the signatures of her Legislative and Executive functionaries, and authenticated under her public seal.

It is now delivered to this Department of the Federal Government, to be deposited in its archives, *in perpetuum rei memoriam*, to serve whenever the occasion may require it, as an authentic testimony of the solemn dissent of one of the sovereign States of this Union from the act therein protested against, as an infraction of the constitutional compact by which she is united to the other members of this Confederacy.

It is difficult, sir, to repress—it is, perhaps, still more difficult appropriately to express the feelings which belong to such an occasion as the present. I have been educated in sentiments of reverence for our Federal Union, and, through life, I have habitually cherished these sentiments. As an individual citizen, therefore, it is painful to recur to that disastrous policy which has imposed on the State in which I live the stern necessity of assuming this relation to the Government of this Confederacy.

As one of the Representatives on this floor of that State, whose citizens have always been forward to manifest a profound and devoted attachment to this Union—of a patriotic and gallant people, who would freely yield their treasure and unsparingly shed their blood in

its defence; the occasion is one of deep and unmingled humiliation, which demands the deposit, in the registry of the Senate, of this record of their wrongs. There may be those, sir, who will look to this act with indifference, perhaps with levity; who will consider it as the result of momentary excitement; and see, or think they see in it, merely the effusion of impassioned, but evanescent feeling. I implore those gentlemen not to deceive themselves on a subject in relation to which error may be alike dangerous to us all.

Forty years of successful experiment have proved the efficiency of this Government to sustain us in an honorable intercourse with the other nations of the world. Externally, in peace and in war, amid the fluctuations of commerce, and the strife of arms, it has protected our interests, and defended our rights. One trial, one fearful trial, yet remains to be made. It is one, under the apprehension of which the bravest may tremble—which the wise and the good will anxiously endeavor to avoid. It is that experiment which shall test the competency of this Government to preserve our internal peace, whenever a question vitally affecting the bond, which unites us as one people, shall come to be solemnly agitated between the sovereign members of this Confederacy. In proportion to its dangers should be our solicitude to avoid it, by abstaining on the one hand from acts of doubtful legislation, as well as by the manner of resistance on the other, to those which are deemed unconstitutional. Between the independent members of this Confederacy, sir, there can be no common arbiter. They are necessarily remitted to their own sovereign will, deliberately expressed, in the exercise of those reserved rights of sovereignty, the delegation of which would have been an act of political suicide. The designation of such an arbiter, sir, was, by the force of invincible necessity, *casus omissus* among the provisions of a constitution conferring limited powers, the interpretation of which was to be confided to the subordinate agents, created by those who were entrusted to administer it.

I earnestly hope, that the wise and conciliatory spirit of this Government, and of those of the several States, will postpone, to a period far distant, the day which will summon us to so fearful a trial. If we are indeed doomed to encounter it, I as earnestly hope that it may be entered upon in the spirit of peace, and with cherished recollections of former amity. But the occasion which shall impel the sovereign people of even one of the members of this Confederacy to resolve, that they are not bound by its acts, is one to which no patriot can look with levity, nor yet with indifference. Whatever men and freemen may do to avert it, the people of Georgia will do. Deeply as they feel the wrongs which they suffer, they will yet bear and forbear. Though their complaints have been hitherto disregarded, and their remonstrances have been heretofore set

at nought, they will still look with confidence to the returning justice of this Government.

I fulfil my duty, sir, on this occasion, with a cherished reliance on that justice; with a deep and abiding conviction of the patriotism and forbearance of that people by whom it is demanded; with an humble but unwavering trust in the mercy of Heaven.

On motion, by Mr. BERRIEN, the letter and protest were ordered to be printed, for the use of the Senate.

#### *The Sinking Fund, &c.*

The Senate took up for consideration the resolutions heretofore offered by Mr. BENTON, relative to the Sinking Fund, the Public Debt, the Bank of the United States, &c.

Mr. SMITH, of Maryland, withdrew his amendment, and moved to refer the whole subject to the Committee on Finance.

Mr. SANFORD said he was satisfied that it was expedient to adopt the first of the resolutions of the gentleman from Missouri. We have now, said he, about fifty millions of debt, and the whole of it, excepting the three per cent. debt, may be discharged in three or four years. What is to be done with the three per cents, amounting to more than thirteen millions of dollars? Is this part of the debt to be perpetual? His own opinion was, that this, like every other portion of the debt, should be extinguished, as soon and as fast as possible. How is the three per cent. debt, then, to be extinguished? Certainly, in no other way than by payment or purchase. We must either pay the full nominal amount, or we must purchase this debt from its holders. The highest market price to which this debt has risen is eighty-five per cent.; the fluctuations of the market, for a long time past, having been between eighty and eighty-five per cent.; and the medium rate of the market being, perhaps, about eighty-three per cent. By the restriction now in force, under the law of 1817, the Commissioners of the Sinking Fund are not permitted to purchase this debt, when its market price exceeds sixty-five per cent. None has been purchased; and none will ever be purchased, while this restriction continues. To provide for the payment of this debt, or to declare our purpose to pay it, would elevate the debt to par; but to give an authority to purchase would not much advance the market price of this debt. Such an authority ought to be, and would be, exercised very cautiously and slowly. This debt is widely diffused, and much of it is held in Europe. So long as it is an annuity of indefinite duration, its value is governed by the market rate of interest, and it cannot rise much above its present market rate; since, at a higher rate, it would afford an interest lower than the lowest market rate of interest in the world. So long, therefore, as the final discharge of the capital of this annuity is indefinitely distant, the capital itself will proba-

JANUARY, 1839.]

*The Sinking Fund, &c.*

[SENATE.]

bly never rise to ninety per cent. in the market. As it is clearly our interest to buy this debt rather than to pay it; as the greater part of this debt is held by persons who have no desire to sell it; as the portions offered in the market, from time to time, are small; and, as it would be inexpedient to raise the market, by offering higher prices than the current rates; it is necessary, if we intend to purchase, to begin and to proceed with all the caution of discreet buyers. There can be no doubt that an authority in the Commissioners of the Sinking Fund to purchase at market rates would be judiciously exercised by them. If this operation shall be commenced, until all the other portions of the public debt shall be paid, our situation may, and probably will, be that, with means in the Treasury fully equal to the discharge of this debt of thirteen millions, we shall be obliged either to postpone its payment, or to pay it at par, or to purchase it upon terms far less advantageous to the public than may be made by gradual and progressive purchases. There can be no doubt, that, by a judicious course of purchases of this debt, a very large sum may be saved to the public.

Mr. BAXTON called for a division of the question, so that the Senate might decide separately on each clause of the resolution; which was agreed to.

Mr. B. then stated, that he was opposed to sending his resolutions to the Finance Committee, as mere resolutions of inquiry. He had sent them to that committee, in that form, at the last session, and had them returned, like a bill of indictment *ignored* by the grand jury. He did not think it worth while to send them, through the same process, a second time. He was for discussing them here, as he had a right to do, under the rules of the Senate, which it was proper to do on many occasions, and doubly proper on this occasion, when the question which grew out of his resolutions was one of principle, not of detail, and when the committee had once shown themselves to be unfavorable. He was glad to see the Senator from New York (Mr. SANFORD) on his side. He had not expected to argue these questions, but only to turn the attention of others to them, who were more conversant than himself with subjects of finance. His walk lay in a different field—among the public lands, the military and the Indian affairs. As for the finances, the Public Debt, the Sinking Fund, the abolition of duties, and the balances in the hands of the Bank, they were all subjects out of his range, and, in moving certain resolutions about them, at the last session, he thought he had nothing to do but to put the ball in motion. But quite the contrary he had found to be the fact. The ball soon stopped, or rather rolled back upon him; and, as he was not a man to give up when he thought himself right, he had now done what he pledged himself to do, at the last session—he had started the ball again, and meant to keep it a-going. He was rejoiced to

see the Senator from New York (Mr. SANFORD) taking part with him even on one branch of his resolutions.

Mr. DICKERSON said he did not rise to oppose the reference of the subject to the Committee on Finance; yet he was not willing to adopt the resolution, and give the discretionary power to the Commissioners of the Sinking Fund which was proposed. It certainly was desirable to extinguish the public debt, as soon as a due regard to the general interest would permit. It will be highly gratifying to proclaim to the world that we are out of debt. To purchase up the debt would be to incur a heavy loss; we cannot gratify ourselves in this particular, without paying too dearly for the gratification. The gentleman from New York (Mr. SANFORD) had stated truly, that the creditors in Europe owned a very considerable portion of the stock of the United States, and had remarked that the three per cent. stock might be purchased at \$3 or 85 per cent. But the fact was, that, if we purchased at 85, we should lose two millions, and, if at its nominal value, four millions of dollars. The Commissioners of the Sinking Fund are now authorized to purchase this stock at \$65 for the hundred, which is considered its par value; the whole, at that rate, would amount to something more than eight and a half millions of dollars; if we purchase it at \$85 the hundred, the present market price, it will cost us more than eleven millions of dollars; and, of course, we should incur a loss of more than two and a half millions; and, if we redeem it at its nominal value, we shall incur a loss of more than four and a half millions; and this to be taken from our Treasury, and a considerable part of it put into the pockets of stockjobbers in Europe. What would be the consequence of going into the market, and purchasing the public debt, as proposed? Why, our stock in Europe, as well as at home, would immediately take a rise, and its value would be considerably increased. The argument of the gentleman from Missouri, relative to British stocks, would not avail in this country: for the price of our stock will certainly be increased with the increased demand for it, should a law be passed as proposed; and, if the price for the three per cents should be fixed at 85, it would immediately rise above it; and, the moment we resolve to purchase up the debt, or to redeem it as soon as proposed, it would rise to its nominal value, and we should have to pay dollar for dollar. Thus, no benefit would arise to the United States, but much to the holders of the stock. The Sinking Fund, he contended, was merely a resolution to pay ten millions a year of the public debt; it was never contemplated to buy up stock to any great extent, nor was it ever expected that it would have that effect. The Sinking Fund had answered all the purposes expected from it, one of which was to keep up the price of United States stock, and had fully accomplished the object of its crea-

tion. The three per cent. stock may be continued for years, under an arrangement, and not felt as a burthen by the community; and, if gentlemen entertained the opinion, that the debt might, with safety, be reduced more rapidly than at present, a power could be given to the Secretary of the Treasury to purchase as occasions offered, which would answer every reasonable purpose. He would leave the matter to the Committee on Finance, so far as an inquiry into the expediency of the measure was concerned; but he could not, as at present impressed, vote for the passage of the proposed law; at least, so far as he was concerned, he thought the inquiry by the committee should precede the passage of the law.

Mr. SMITH, of Maryland, said, that, having made the motion, it was incumbent on him to say a few words on the subject. He then took an extended view of the funding system, from its commencement. He said, that the old six per cents had been considered irredeemable, except by the payment of eight per cent. per annum, on every certificate for one hundred dollars; that, in the year 1802, Congress passed an act, appropriating the sum of \$7,300,000, to be paid annually to the Commissioners of the Sinking Fund, to be applied by them to the payment of the principal and interest of the public debt; and, on the purchase of Louisiana, an addition was made to that fund of \$700,000, making the whole fund eight millions—that the system operated well. It enabled the Treasury to pay off with the surplus funds the debt due to Holland; but that debt being paid off, a large surplus would have remained in the Treasury, inapplicable to any object, until the eight per cents, contracted in Mr. Adams' administration, should become payable, which was, he believed, in 1809. To obviate that difficulty, a proposal was made, in 1806, he believed, to the holders of the six per cent. debt, and acquiesced in by them, that, in lieu of the stock held by them, payable, as already stated, by eight dollars annually on the 100 dollars, they should receive a new stock for the balances due to them, bearing an interest of six per cent., and redeemable at pleasure. That arrangement enabled the Commissioners of the Sinking Fund to apply, annually, the whole of the eight millions, and the old six per cents have been paid off many years (he believed nine) sooner than could have been done under the previous system.

The late war involved the United States in a large debt, he believed, exceeding one hundred and twenty millions of dollars; and a new law passed, on the 3d of March, 1817, which appropriated ten millions of dollars, annually, to be applied to the payment of the interest and principal of the debt. The system has operated as well as its most sanguine friends could have contemplated. It is due to Mr. LOWNDES, then Chairman of the Committee of Ways and Means. It has nearly paid off the whole of the debt, and will, without any extraneous aid,

discharge nearly the whole (the three per cents and Bank debt excepted) in the year 1832.

But, said Mr. S., we are told that we cannot pay the debt, except by purchase. Why? Because the Senator (Mr. BENTON) assures us, "that there was no way to prevent an accumulation of near twenty millions of dollars in the Treasury, in the years 1832 and 1833, to lie there idle, (or rather in the Bank,) or, what was worse, to be directed to some subordinate object, while public debt to that amount was unpaid, and drawing interest."

If, said Mr. S., the Senator be correct in his assertion, then it is indispensably necessary that the Senate should adopt some measure to prevent so great an evil. If, however, he should have been mistaken in his calculations, and, if it can be shown that there will be of debt redeemable nearly sufficient to absorb the ten millions at the disposition of the Commissioners of the Sinking Fund, and the small deficiency can be supplied, without the necessity of having recourse to purchase; and, if it can be shown that nearly the whole, perhaps the whole, of the debt will be paid off before the year 1833, then the authority to purchase the 4½, 5, and 6 per cents will be wholly unnecessary. Mr. S. said, that he hoped to satisfy the Senate on all those points. It had been, he said, the practice of his long life to have recourse to figures, on all similar subjects; not, he said, to figures of speech or rhetoric, but to arithmetical figures. He could rely on them for truth, and would proceed to state the ground on which he relied with confidence.

The debt, he said, amounted, on the 1st of January, to \$58,862,125; deduct therefrom the Bank debt and the three per cent., amounting together to \$20,296,249, and there will remain a debt of 6, 5, and 4½ per cents of \$38,065,886, which, he expected, might nearly be discharged in the year 1832, perhaps entirely.

Mr. S. proceeded and said, that there will be redeemable, in 1829 and 1830, an amount of six and five per cents redeemable at pleasure, which, with the interest on the whole debt, will make together the sum of \$22,553,179, being \$2,553,179 more than the twenty millions applicable by the Commissioners to the payment of the debt and interest for those two years. That unpaid balance, Mr. S. said, would be paid in 1831, which, together with stock, redeemable in that year, bearing an interest of 4½ and 5 per cent., would, with the interest payable in that year, afford an amount, redeemable and payable, of \$15,353,824; in that year, the Commissioners would, of course, pay the ten millions, and there would then remain a balance, to be paid in 1832, of \$5,353,824. Here, Mr. S. stated separately the amount of the several stocks that became redeemable, during the year 1831, and the amount of interest payable; he also said, that it was proper for him to inform the Senate that \$10,999,000 of those stocks were not redeemable until the 31st of December of that year,

JANUARY, 1829.]

*The Sinking Fund, &c.*

[SENATE.]

of course, that there would only be a little more than \$2,600,000 that the debtor could be compelled to receive, on the 1st of July, the time at which the semi-annual payment is generally made; but, as more than six millions of that stock was held by the Bank of the United States, he could not doubt that the Board of Directors would readily consent to relinquish so much as would be necessary to complete the usual payment of five millions, in July. He did not doubt, he said, for he believed they were well disposed to do any thing in their power to accommodate the Government. It was greatly their interest to be on the best terms with the Treasury. The inconvenience would be trifling; besides, they would know, that, unless they did accommodate, the Commissioners would be compelled to redeem a part of the seven millions Bank debt.

Mr. S. then said, that he hoped that he had satisfied the Senate that there were more than sufficient of stock redeemable and interest payable, during the years 1829, 1830, and 1831, to absorb the thirty millions applicable, during those years, to the payment of the debt, and that there would be no unemployed money in the Treasury or Bank during those years.

The balance unpaid, in 1831, said Mr. S., of \$5,353,824, would be paid, in 1832, which, with the stock redeemable in that year, and the interest to be paid, would together make the sum of \$8,896,779; being about a million less than the ten millions in the hands of the Commissioners; which million would, he conceived, be relinquished by the Bank from the stock it held in the loan, due on the 31st December, 1834, for reasons similar to those he had already given; indeed, he said, he felt certain that they would accommodate the Treasury, without hesitation.

Mr. S. proceeded, and said, that he trusted that he had satisfied the Senate, that, instead of twenty millions lying in the Treasury unapplied, whilst a debt was unpaid, bearing interest, there would not be one dollar. It was, however, proper for him to state, that there would still remain a small debt of about two millions, redeemable in 1833, and another, of a little more, in 1834; but that they were not of importance, and would be paid without being felt; that it was possible the whole of those debts might, by management, and an increase of revenue, be paid in 1832. If not, it ought not to deter us from repealing the duties on articles which now give a revenue of eight, perhaps ten millions; but, on that subject we could act more advisedly at the next session, when we should better know the effect of the last tariff. For himself, he was decidedly of opinion that duties to that amount ought to be repealed, and, in the recess, he would prepare a bill with a view to that object, which he thought he could submit early in the session. But he was unwilling to touch the subject during the present session, for it was one that required time and great consideration.

Mr. JOHNSTON, of Louisiana, said he would reply to the first resolution, which proposes to authorize the purchase of the public debt in the market. He said he thought it premature to pass a law at this session, which must be in-operative for two years to come, and which would, in effect, supersede all other modes of employing the public money, whatever might be the future opinion of Congress.

Mr. J. remarked, that we should have ample employment for our funds during 1829 and 1830. He said there was redeemable, during the present year, 16,279,822 dollars of stock, bearing six per cent., and there was a stock of 1,582,836 dollars, of four and a half per cent., payable half this year and half the next; which, with the accruing interest, will make a sum nearly equal to the Sinking Fund of ten millions, for two years. This stock bears a high rate of interest, and above the market rate of money, and which it is the interest of the Treasury to pay as soon as possible.

In the year 1831 there will be no stocks redeemable, and consequently, we may calculate on ten or twelve millions of dollars in that year, for which Congress must provide before that time arrives. But, he said, it appeared to him too soon now to provide for the purchase of stocks, which could not be effected under two years. While one gentleman proposes to purchase our stocks in the market, another suggests the expediency of dividing this sum among the several States; another claims a portion of it for great national improvements; another thinks that will be a proper time to commence a reduction of the duties. The public mind is not yet sufficiently formed and expressed on these propositions. We require facts, and time for deliberation. The next will be a long session, and we shall then have the benefit of a full discussion; and the session after 1830-'31, will be in good time to decide what ought to be done with the revenue of 1831.

The gentleman from Missouri proposes now to pass a law to authorize, at that time, the purchase of the stock. This may become the most judicious application of the money, but it is premature, and unnecessary now to give the authority. When we go into the market, we may not be able to buy our stock at its par value; indeed, we know we must pay more; and the very fact of going into the market to purchase so large a sum will raise the price. It will be advisable, at the next session, to ascertain what can be done in the market, with the fund holders, to legislate advisedly—upon that information my opinion will be formed. Mr. J. said the gentleman has suggested the propriety of purchasing the thirteen millions of three per cents. The propriety of that must depend on the price at which they could be bought. If they must be purchased at par, that is, 100 for 100, then we dispose of our money for three per cent., which we are not prepared to do for the present. The three per

cents are now selling at 85 on the 100, that is, equal to an investment at \$3 58 per cent., which is less than the market rate of interest. This arises chiefly from the fact, that this stock will, before many years, be paid off at 100, when the holders will realize 15 dollars on each share, which will bring the stock to 4 or 4½ per cent., equal to the value of money in the market. The price of this stock is now estimated at 100 for 100, in making a calculation of its value. This stock could not be purchased at 85, because the holders now see it will ere long be redeemed, and, when redeemed, must be taken at 100.

Mr. J. explained how the average balances in the Bank had been so large; which was owing to several large sums lying over, unemployed, which would never occur again; that portions of this sum were in transitu from place to place; that the Bank could not employ its capital, much less avail itself of the use of these balances. It is known that about sixteen millions of the revenue is received in New York, where the capital of the Branch does not exceed two millions five hundred thousand dollars, and where the discounts do not exceed four to five millions. The gentleman proposes to make the Bank pay interest for these uncertain balances, which, at most, are only unapplied balances of appropriations.

Mr. J. said, the Bank has given us \$1,500,000 for the bonus, the interest on which alone would exceed the interest due on the balances. Besides this, they receive and pay out, without compensation for the labor or the risk on the exchange, more than twenty millions a year. The Bank will tell you to use your money, if you desire to draw it, in any way or at any time; but that they cannot pay the interest, because they cannot employ it. Mr. J. said, that Mr. Crawford was induced, in 1821, to give the loan (among other reasons) to the Bank, because they could not employ their funds, of which we were a large stockholder. Mr. J. said, we had a large equivalent from the Bank in the safety and management of our funds for the use of the balances. We ought to deal justly with them. If they pay us the interest, which will not exceed \$150,000 a year, we must pay them a reasonable compensation for their services. Mr. J. concluded by saying, the proposition now submitted was, in his judgment, premature, and the law unnecessary.

Mr. BENTON had a remark to make in reply to the Senator from Louisiana, (Mr. JOHNSON,) which was, that all these statements about the amount and use of the balances would come much better when they came officially, as he hoped they would, from the President of the Bank. With respect to the amount of actual balances, of which he had only exhibited the average, he presumed the Senate would soon have an opportunity of seeing them, as they had been called for by a resolution of the Senate. Their amount would then be seen to be great, astonishingly great. He differed from

the gentleman as to the proper time for this debate. He did not think it premature; on the contrary, it was hardly early enough. He himself had begun, about a year ago, to call the attention of the people to the great subject of extinguishing the public debt, and abolishing ten millions of duties. The subject was just beginning to take root in the public mind, and there was now hardly time for the people to think, to make up their minds, and to make known their minds, before Congress would have to act. The subject was one of vast consequence in principle, and of great extent in detail. The Committee of Finance had reported forty-five articles on which duties might be abolished without injury to domestic industry. He, Mr. B., would add fifteen articles more, of which two, namely, blankets and strouds, for the Indian trade, were of the first moment to his constituents engaged in the fur trade; and three others, namely, tin, copper, and brass, in plates or sheets, fit for manufacturing here, were of great moment to the numerous manufacturers of these articles, and to the still more numerous class who use the articles after they are manufactured. The payment of the debt, and the consequent abolition of duties, will be the test of new parties. None will stand up openly for the continuance of the debt; but innumerable operations will be carried on to diminish the revenue, or to squander it; the effect, if not the object of which, will be to perpetuate the debt. He, Mr. B., was against partial reductions of duty to diminish the revenue and to continue the debt, to relieve one part of the community, and leave the burthens upon another; he was for abolition, when the whole list could be taken up.

The resolution was referred to the Committee on Finance.

TUESDAY, January 13.

#### *Distribution of the Revenue.*

The Senate, as in Committee of the Whole, took up the following bill:

"*Be it enacted, &c.* That the Secretary of the Treasury be authorized and required, under such regulations as he may think proper to prescribe, to divide annually among the several States of the Union, in the ratio of direct taxation, all moneys in the Treasury, not otherwise appropriated, on the first day of June next, and on the first day of June in every succeeding year.

"*Sec. 2. And be it further enacted,* That, of the annual sum of ten millions of dollars appropriated to the sinking fund by the second section of the act of the third of March, one thousand eight hundred and seventeen, entitled 'An act to provide for the redemption of the public debt,' five millions be appropriated to the fund to be divided among the States, as by the first section of this act, annually, after the year one thousand eight hundred and twenty-nine; and that so much of the residue of the said annual sum of ten millions of dollars, as shall not, on the first day of June of any year, have been

JANUARY, 1829.]

*Distribution of the Revenue.*

[SENATE.]

applied to the redemption of the public debt, shall be appropriated to the fund to be divided among the States as aforesaid."

Mr. DICKERSON (who introduced the bill) arose and said, that, two years ago, when this subject was under discussion, he endeavored to show the necessity of providing, in time, for the proper direction of our funds—when our public debt shall be paid; when the great works for national defence shall be completed; and when the demands upon our Treasury, growing out of the consequences of the revolutionary and late wars, shall be reduced to a small amount. He then endeavored to show that, whatever system should be adopted for this purpose, it ought to commence before the entire extinguishment of the public debt: and he further attempted to show the extreme danger of a large surplus in our Treasury, unless subject to some well-digested and previously settled regulation for its disposal.

I thought then, as I do now, said Mr. D., that, with a proper retrenchment of our expenditures, we might divert a large sum, annually, in addition to the ten millions appropriated to the Sinking Fund, towards the reduction of the public debt; by which, the moment of its final redemption might be greatly hastened. Believing, however, that no proposition to divert from the present objects of expenditure any considerable portion of our revenue, would be well received, I shall consider the subject as if no more than ten millions of dollars a year were to be applied to the reduction of the public debt.

At this rate, however, it is rapidly drawing to a close. By a calculation which I had the honor to submit to the Senate, it appears that, by the annual application of the ten millions of dollars, our debt, except that bearing an interest of three per cent., and the United States Bank loan, may be extinguished on the 1st day of July, 1833; and leaving, on that day, a surplus of \$342,069 28. But, as more than two millions of the four and a half per cent. stock is not redeemable before the first day of January, 1834, and as more than four and a half millions of our five per cent. debt is not redeemable before the first day of January, 1835, there will be a large surplus in our Treasury, between the years 1832 and 1835, not applicable to the reduction of the public debt, under the present regulation of the Sinking Fund.

It is proposed, by the bill under consideration, to appropriate, after the 1st of January, 1830, five millions of the Sinking Fund to the fund for distribution; still, however, subject to the control of Congress; as no more is to be divided than may be found in the Treasury unappropriated, on the first day of June in that year, and on the first day of June in each succeeding year.

By this arrangement, the public debt—except the three per cents and Bank loan—might be extinguished on the first day of January, 1833, and forty millions of dollars distributed

among the States. This would admit of a gradual reduction of the public debt; but, as fast as the public good requires that it should be reduced, it would speedily bring into operation a fund for such objects of education and internal improvement, as the States might think proper to adopt; and gradually introduce a safe system for the disposal of our surplus funds, after the extinguishment of our debt; and which, after all the reductions of revenue that can or will be adopted, will not fall short of five millions of dollars a year.

Of this feature of the bill, however, I am not particularly tenacious. Should the whole of the Sinking Fund be applied to the reduction of the debt, till the first of January, 1831, or 1832, the States would wait the longer for the funds, which are extremely necessary to their purposes, and which they could apply to the greatest possible advantage to the country, but the debt would be the sooner extinguished. Even if this part of the bill should be altogether omitted, still its most important objects would be answered, and many objections to it obviated. If the bill should simply provide, that, after the first day of June, of the next, and every succeeding year, the unappropriated moneys in the Treasury should be divided among the States, in the ratio of direct taxation, and that such parts of the Sinking Fund, as, in any year, should not be applied to the reduction of the public debt, should be considered as unappropriated money, the most important objects in view would be attained. The States would ultimately, and in a short time, have the benefit of their funds; and the inconvenience and extreme danger of a large surplus in the United States Treasury, to be legislated away by Congress, would be avoided.

I have no doubt of the constitutionality of the measure proposed in this bill. Others may have. The doubts of some, as to the constitutional powers of Congress, if adopted by a majority, would put an end to some of the most important and indispensable objects of legislation; while others seem to consider no provision in the constitution as an impediment to the exercise of the will of Congress. I am with those who are in favor of a rigid construction of the constitution; but not too rigid. Among the enumerated powers of Congress, is that to provide for the common defence and general welfare of the United States; and they are to make all laws which shall be *necessary and proper* for carrying into execution the foregoing powers, and all other powers vested by the constitution in the Government of the United States, or in any Department or office thereof. It is a matter of extreme difficulty to ascertain the exact extent and limits of the powers vested in Congress by this provision of our constitution. Had the members of the federal convention been required to define those powers, they would probably have been as much at a loss as we are. It was undoubtedly intended, however, by this provision, to vest



in Congress, a body of which there was the least jealousy, a power not otherwise granted, but absolutely necessary to the perfection of the system—a power which it was impossible accurately to define, or upon the exact limits of which the convention could not agree. It was an expedient to avoid difficulties at the moment, that might otherwise have been found insurmountable, adopted under an impression that, being subordinate to the other provisions of the constitution, it might be safely trusted to the immediate representatives of the people and of the States. The power, however, has limits, and narrow limits. It must be exercised in strict accordance with, and in subordination to, the other provisions and principles of the constitution; its range must be confined by the words *necessary and proper*; and must, in no case, infringe the rights of States or individuals.

Mr. SMITH, of Maryland, said, he was of opinion, with the gentleman from Missouri, that, when the public debt was extinguished, it was better, instead of continuing to raise a revenue, to leave in the pockets of the citizens the surplus which the gentleman proposed to divide among the states. It was better to reduce the duties on imports, the result of which would be cheaper. Was it not better that citizens should be relieved from a part of their burdens, to decrease the expenses of every family in the United States, than to raise a revenue not wanted by the country? He thought it was.

In relation to distributing the surplus revenue, the effect of it would be, that every State would repeal its own laws, levying taxes for its own support, and look to the General Government for support. Thus the several States would be subservient to the General Government, giving that Government a power most dangerous.

Congress, in the next place, had no right to raise a revenue for the purpose of distributing it; the gentleman from New Jersey could not find, in all the powers delegated to Congress, any authorizing it to raise a revenue, except for its support, and for the extinguishment of the public debt. Under the name of revenue, the Government had already given large bounties, for he would call them bounties, to the woollen manufacturers; the revenue was wanted for the protection of the woollen manufacturers. When a duty was imposed upon cotton, it was said that the manufacturers would, in a few years, supply all the demand of the country, and be enabled to export. It was true it varied in different years, but the amount annually exported was upwards of a million of dollars. It was expected, in 1816, that this would be the case; it was expected that the domestic would drive all the foreign manufacturers out of the country, and it turned out to be true at first, but, afterwards, it was found that the importations were finally greater, notwithstanding the first diminution; it would be the same with woollens, else there was no necessity for the

gentleman's bill, for there would be no revenue to distribute.

Mr. HAYNE said, that the proposition of the gentleman from New Jersey had gained favor from the public, and some countenance even in this House, from a misunderstanding which had gone abroad, as to its true character. The public supposed the gentleman from New Jersey had contrived a plan to settle this distracting question of internal improvement; not only that he had settled the constitutional question, but that the whole subject was hereafter to be set at rest. But what do you find, upon looking at the bill? It does not even propose to settle that question. It has no more to do with it than it has with the military or naval establishment. It simply provides, that all the unappropriated money remaining in the Treasury on the first of June every year, shall be distributed among the several States, and that five millions of dollars of the Sinking Fund shall be applied in the same way. But are there to be no more calls for money for internal improvements? Are there to be no more claims presented upon this floor? Are there to be no more Ohio and Chesapeake Canals? No more Louisville and Portland Canals? No more improvements to be specially provided for? No, sir, there will not be a cent of revenue to distribute, except the five millions taken from the Sinking Fund. And this is the sum and substance of the bill. It does not even touch the question which it is supposed to settle. It depends upon entirely different principles, and has different objects from those discussed by the gentleman from New Jersey. That gentleman had, indeed, given a faithful picture of the state of things under the present system—of the scrambles, quarrels, and heart burnings; but his bill does not set them at rest, nor even attempt to do so. He repeated, that, if the bill passed to-morrow, it would never stop the application of one dollar for internal improvements.

The gentleman seemed to think there would be some advantage in raising the revenue, even if it was not wanted, for the mere purpose of distributing it; but could any thing be more shocking to the common sense of mankind than the idea of levying taxes for the sake of returning the money so raised back again to the pockets of the people from whom it was exacted? Was it the object of the gentleman to support an army of tax-gatherers, who should subsist by raising money that was not wanted? Or was it the object of the gentleman to have the eyes of all the States fixed upon the Federal Government, and have them live under the apprehension that in that Government rested the power to furnish them with money for State purposes? Or was it the object to have the States fed by the General Government, for the purpose of keeping them in subserviency to it? Some one of these objects must be proposed. The project could not be sustained for a moment, merely on the ground that the General Govern-

JANUARY, 1839.]

*Distribution of the Revenue.*

[SENATE.]

ment was going to the trouble and expense of collecting this money, in order to have the pleasure of returning it to the several States. Then, again, let it be specially noted that it was not to be returned in the ratio of consumption, (by which it was raised,) but in the ratio of direct taxation. The gentleman had advocated the passage of his bill, on the ground that it would be easier for the Federal Government to raise this revenue and return it, than it would be for each State to raise sufficient for its own purposes; but, when the constitution was formed, was it ever imagined that the States would require the aid of the Federal Government to levy taxes for domestic purposes, within their individual boundaries?

Supposing the bill to have passed, what was to be the effect? The Government has the money, and we, in the States, are to be put in the situation of mendicants, scrambling, as it has been described, for a portion of our own money. We are to have doled out to us, as a favor, the money which has been first drawn from our own pockets. Supposing the constitutional question to be settled, if the Government has the right to give this money, so it has the right to withhold it; thus keeping the States forever in a state of subserviency, putting them, he presumed, on their good behavior.

The second section of the act is still more objectionable than the first. What is it? Why, the object is to apply, in the same objectionable way, the funds set apart for the payment of the public debt—to postpone indefinitely the payment of the national debt.

This brought up, at once, the question, whether our national debt ever ought to be paid? Whether a national debt was indeed a national blessing—a question which had divided the statesmen of Europe from the beginning of time, but on which he had hoped we were more united. Several years ago, Congress had solemnly set apart ten millions annually as a Sinking Fund, and had sacredly pledged this ten millions to the people of the United States, to pay the national debt. He believed that the act was one of the wisest in the statute book. He believed that the debt could not be paid off too soon. Congress could not tell how long the country was to be in a state of peace and prosperity; the revenue might fail, or a war, or other unforeseen circumstances might arise, to thwart their expectations.

The gentleman from New Jersey had offered two statements, one showing that, by the regular operation of the Sinking Fund, the debt would be extinguished in the year 1838; the other showing that, by his plan of delaying the payment of a certain portion, for the purpose of distributing it, the debt would not be extinguished until the year 1838. The proposition was, then, to prolong the period for the payment of the national debt for five years. The gentleman had asserted that there would be a difficulty in paying this debt, because a portion of it was not redeemable. From his statement,

it appeared that the whole of it was redeemable by 1838, except two sums, which, inconsiderable, (less than \$7,000,000,) was to run for a few years longer; but could there be any difficulty in redeeming, even by purchase, at the market price, seven millions of dollars, by the year 1838, if the country continued in a state of prosperity? He contended that they could redeem the whole of it (for it bore only  $4\frac{1}{2}$  or 5 per cent. interest) by purchase, at any time, after the manner proposed by the gentleman from Missouri. The stock could be obtained at par, or a little above it; and he took it for granted, that, by the passage of a *timely* act, the whole of the four and a half and five per cents would be obtained. The gentleman from New Jersey had argued that it was wrong to purchase stock which bore a less interest than money was worth in the market; but Mr. H. was of opinion that the debt should be purchased up and extinguished as fast as it could be done conveniently. He considered money, idle in the Treasury, not only as bearing no interest at all, but as actually fifty per cent. below par in value, for it would lie there to be squandered, and be always subject to the general "scramble" of the States, which had been described by the gentleman.

Mr. BENTON rose to read some extracts from a debate in the British House of Commons, about a hundred years ago, on a proposition of the same kind as that which now occupied the deliberations of the Senate. England then had a small debt, not much larger than the debt of the United States was at present; she had a Sinking Fund also, under the operation of which her debt was annually melting away; and she enjoyed a season of peace—the long peace under the timid administration of Sir Robert Walpole, in which the debt might have been paid off. The circumstances of the two countries, with respect to their debt, were as alike as possible; that is to say, the condition of England one hundred years ago, and that of the United States now. In these circumstances, Sir Robert Walpole made a motion to divert £500,000 from the English Sinking Fund, as the Senator from New Jersey (Mr. DICKERSON, who Mr. B. was sorry to name in company with Sir Robert Walpole) now proposes to divert five millions annually from our Sinking Fund. The motion of the English minister was supported by all the commonplace arguments in mitigation and in favor of the public debt, as, that a debt increased the wealth of a country, and gave stability to the Government; that the then debt of England was inconsiderable, and might be paid at any time; that the public creditors were in no hurry to receive, and that the money, for the present, could be used more beneficially for other purposes. The opposition members, however, from whose speeches I propose to read extracts, were opposed to all these doctrines. These members were the Iron Barons of the day, such as Lord Chatham, afterwards contrasted with the Silken

Barons of a later period. They had the best of the argument, and their prophecies, unhappily for their country, have become its history. But the Minister had the best of it at voting, and his motion prevailed. He succeeded in violating the Sinking Fund—in diverting one-half of its amount from its proper object, to objects of transient interest and subordinate importance. The consequences were such as had been foretold by the Iron Barons.

The season of peace passed away; the long and timid administration of Walpole itself passed away; the debt was unpaid; successive wars came on; and the debt, which was then made so light of by the Minister, rapidly grew up to a frightful amount; soon overwhelmed the country with taxes, and banished all idea of ever seeing it paid. The example, Mr. B. hoped, would not be lost upon the United States, the child of England. The experience of the mother, he humbly trusted, would not be lost upon the daughter, as the experience of parents is too often lost upon their children. History was said to be philosophy teaching by example; he hoped this moral and sublime teacher would not lavish her lessons in vain upon the American Senate.

Mr. B. joined in the wish expressed by the Senator from South Carolina, (Mr. HAYNE,) that the debt of the United States might be paid off under the ensuing administration. He concurred with that Senator in the measure of the new fame which such a consummation would confer upon General Jackson.

Observing some Senators to smile, Mr. B. spoke up with animation and vehemence, repeating what he had said, and even going so far as to say that the new President would have as hard, or harder work in baffling the enemies to the payment of the debt, than he had in vanquishing the British at New Orleans; for there he had his enemy in front, and saw what he was at, but here he would have his opponents on his flank and rear, covered up in masks and disguises, laboring to accomplish what would not be avowed. No one would now stand up and say "a public debt was a public blessing;" but many would practise upon the maxim, and endeavor to perpetuate ours, by withholding the means of paying it; by abolishing duties beforehand, and preventing the acquisition of revenue, or by squandering it upon all sorts of objects.

Mr. B. read the following extracts from the debates to which he alluded:

*Sir William Pulteney.*—"The Sinking Fund, that sacred deposit for extinguishing the duties and abolishing the taxes which lie so heavy on the trade and on the people of this nation, ought never to be touched; no consideration whatever ought to prevail with us to convert that fund to any use but that for which it was originally designed. It has, of late, too often been robbed—I beg pardon, sir, robbing is a harsh word, I will not say robbed—but I must say that, upon several occasions, there have been considerable sums snipped away from it."

*Sir John Barnard.*—"The creditors of the public are, perhaps, at present, unwilling to be paid off, because they have a greater interest for their money from the public than they can have anywhere else. But, let their inclinations be what they please, it is certainly the interest of the nation to have them all paid off; the sooner it is done, the happier it will be for the nation, and therefore no part of what is appropriated to their payment ought to be converted to any other use. Their unwillingness to receive payment is so far from being an argument against paying them that, on the contrary, it shows that they have a better bargain from the public than they can, in the same way, have from any other person."

*Sir William Wyndham.*—"The Sinking Fund is a fund I have always had the greatest veneration for; I look on it as a sacred fund, appropriated to the relieving the nation from that load of debts and taxes it now groans under. \* \* \* I have, indeed, been always afraid that some enterprising Minister might be tempted to seize upon it, or some part of it, in time of war; but I little dreamt of seeing any attempts made upon it in a time of the most profound tranquillity. It is to me a melancholy consideration to think of the present vast load of the national debt—a debt of no less than forty-five millions and upwards, and that all contracted since the Revolution (1688). This must be a melancholy consideration to every gentleman that has any concern for his country's happiness; but if the motion now made to us shall be agreed to, how dismal will this consideration be rendered when we reflect upon the little appearance there will then be of this debt's ever being paid. Is the public expense never to be lessened? Are the people of England always to pay the same heavy and grievous taxes? Surely, sir, if there is ever a time to be looked for of easing the people of this nation, the present is the time for doing it. \* \* \* To this the motion now made is directly contrary; for, the not paying off an old debt is the same as contracting a new one, and subjects the nation to the same expense with respect to the payment of the interest."

*Mr. Taylor*, member for Petersfield, observed, "That there are some people in the nation who, the more they owe, the greater advantage they make, and the richer they grow—such are the bankers; that, by the motion made to the House, one might imagine that some gentlemen took the case of the nation to be the same: but, for his part, he could not think so, and, therefore, differed from the motion."

[Here the debate closed for this day.]

WEDNESDAY, January 14.

*Claim of Maison Rouge* et al.

The Senate took up, as in Committee of the Whole, the bill to "provide for the legal adjudication and settlement of the claims to land therein mentioned;" and after an explanation of the object of the bill by Mr. BERRIEN, Mr. SMITH, of South Carolina, moved that it be postponed, and made the order of the day for Wednesday next.

Mr. S. observed, that the subjects comprised

JANUARY, 1839.]

*Distribution of the Revenue.*

[SENATE.]

in the bill had previously been under the consideration of Congress, and he thought he had some recollection of them. The claims of Bastrop, of Winter, and of Maison Rouge, were, he believed, embraced in the bill; and some of these claims had more than once been here, and been rejected. A bill on the Maison Rouge claim had passed the other House, but had been rejected in the Senate; and there was a mass of testimony, which went to show that the claimant had no right whatever to the land claimed by him. Mr. S. wished the bill to be postponed for a few days, in order that he might have an opportunity of examining the documents. If the gentleman who introduced this bill would name any particular day to which it should be postponed, he would be satisfied; but, if he did not, he himself would move that the bill be postponed to this day week. There was, said Mr. S., a vast deal of written evidence somewhere; the subject was one of importance, embracing near three millions of acres of land in Louisiana; and he thought it would require more deliberation than one moment, to enable the Senate to pass such a bill with a correct understanding of its ultimate consequences.

Mr. JOHNSTON, of Louisiana, had no objection to the postponement of the bill, that the gentleman might acquire information, but he hoped the gentleman from South Carolina would make the time of postponement as short as possible, as it was an important subject to his constituents, and the session was very short. He could state all the facts necessary, and if the written documents to which the gentleman alluded could be found, still the bill was necessary. The holders of the land had appealed to the Senate for a settlement of their title; the Senate had decided that their body was incompetent to act upon the petition; they now wished to appeal to a judicial tribunal for a settlement, and this bill would enable them to take it to some competent court. The remarks of the gentleman from South Carolina showed that he was prepossessed; that he had made up his mind upon the subject; and that no evidence which could be offered would alter that opinion. He (Mr. J.) knew all the circumstances to which the gentleman had alluded. The title to the lands never was attacked on the ground that the titles were not legal; there was no question with regard to the genuineness of that, but the difficulty was, that the parties made a contract with the King of Spain to settle the country upon certain terms, and the only question was, whether that contract had been performed; and it was a question which could only be settled by a judicial tribunal. He had been required by the Legislature of Louisiana to press this matter upon the consideration of the Senate.

It had been before Congress for more than five and twenty years, and the richest country in Louisiana, which was covered with these titles, had remained all that time unsettled.

The holders dared not sell the lands, under these circumstances, and they asked Congress to give them an opportunity to settle the doubtful question of the titles, that they might sell the lands, and the country no longer remain unsettled. It seemed, from his remarks, as if the mind of the gentleman from South Carolina was made up, by some previous consideration of the question; but he could assure the gentleman that all guards had been placed in the provisions of the bill, to have the public rights preserved, as well as the rights of those interested, settled. He hoped the gentleman would not ask for a long postponement; he was willing to indulge him in any delay for the purpose of acquiring information, although he was perfectly satisfied he could explain every thing to the gentleman's satisfaction.

Mr. SMITH, of South Carolina, said, he was not certain whether the gentleman from Louisiana opposed a postponement of the bill or not. He should not, as the gentleman had not asked them, give his reasons for wishing a postponement. His reasons, however, were very cogent, and he did not know that a shorter time than Wednesday next would enable him to examine, as fully as he wished to do, the various papers connected with the subject. He did not know what he should say when his investigations had terminated; but he had a distinct recollection of some facts, in relation to these claims, and he wished time to be allowed him to acquaint himself with all of them. The gentleman from Louisiana entertained doubts whether he (Mr. S.) was not already opposed to the claims provided for in the bill. Mr. S. would remove these doubts, and assure the gentleman that he had been opposed to them, and wished for an investigation, to ascertain whether his opinions would or would not remain unchanged.

The bill was made the order of the day for Wednesday next.

THURSDAY, January 15.

*Distribution of the Revenue.*

The Senate resumed the consideration of the bill "to distribute a portion of the revenues of the United States among the States"—the question being on a motion of Mr. BERRIEN, for the indefinite postponement of the bill.

Mr. DICKERSON said he had not supposed, when he offered this bill to the consideration of the Senate, that it was in an unexceptionable form. He expected that it would excite considerable discussion, and that it would be referred to a committee, to receive such modifications as should be thought expedient. Presuming that the minds of the Senators were made up upon the subject, he would move that it be referred to a select committee.

The PRESIDENT said that a motion to refer was not in order, the motion to postpone having precedence.

Mr. BERRIEN said he was not disposed to in-

SENATE.]

*Northeastern Boundary.*

[JANUARY, 1890.]

terfere, and prevent the gentleman from New Jersey from modifying his bill so as to make it acceptable. In order, therefore, that the gentleman might have an opportunity to amend the bill, he would withdraw his motion to postpone.

The PRESIDENT remarked, that the yeas and nays having been ordered, the motion to postpone could not be withdrawn without the unanimous consent of the Senate.

No objection having been made, the motion to postpone was withdrawn, and the bill was referred to a committee consisting of Messrs. DICKERSON, BRANCH, BELL, HAYNE, and SANFORD.

MONDAY, January 19.

*Sabbath Mails.*

Mr. JOHNSON, of Kentucky, from the Committee on the Post Office and Post Roads, to whom had been referred several petitions in relation to the transportation and opening the mails on the Sabbath day, made a report, concluding with a resolution, "that the committee be discharged from the farther consideration of the subject."

Mr. J. moved that the reading of the report be dispensed with, and that it be printed. He requested that more than one copy for each Senator should be provided, that he might send copies to his constituents. He believed that legislation upon the subject was improper, and that nine hundred and ninety-nine in a thousand were opposed to any legislative interference, inasmuch as it would have a tendency to unite religious institutions with the Government.

Mr. CHAMBERS moved that one thousand copies be printed, and Mr. HAYNE, that three thousand copies be printed, for the use of the Senate.

Mr. CHANDLER said he had no objection to the printing of any number of copies, except as to principle: it did not appear to him that it was right to order a large number of copies to be printed until the Senate knew what it was, and that they should not be ordered until the report had been read, as it might seem to imply that they approved of the report.

Mr. JOHNSON said he had moved to dispense with the reading of the report, because he did not wish to trouble the Senate with the reading of any of his reports. He believed that these petitions and memorials in relation to Sunday mails, were but the entering wedge of a scheme to make this Government a religious instead of a social and political institution; they were widely circulated, and people were induced to sign them without reflecting upon the subject or the consequences which would result from the adoption of the measure proposed. There was nothing more improper than the interference of Congress in this matter.

Mr. CHAMBERS disagreed with the gentleman

from Maine, that ordering a large number would imply any assent to the principles adopted in the report. Neither did he agree with the gentleman from Kentucky, that the adoption of the measure prayed for would have a bad tendency, and that legislation upon the subject would be improper. Some had asserted that this measure did tend to unite religious with our political institutions, and others had asserted that such would not be the result. The petitioners took an entirely different ground. They said that the observance of the Sabbath was connected with the civil interests of the Government. He did not mean to be understood, however, as having formed any opinion upon the subject.

Mr. JOHNSON said he would state, in justice to himself, that he believed the petitioners were governed by the purest motives, but if the gentleman from Maryland would look at the proceedings of a meeting at Salem, in Massachusetts, he would find, it did not matter what was the purity of motive, that the petitioners did not consider the ground they had taken as being purely that the Sabbath was a day of rest; they assumed that it was such by a law of God. Now, some denominations considered one day the most sacred, and some looked to another, and these petitions did, in fact, call upon Congress to settle what was the law of God. The committee had framed their report upon principles of policy and expediency. It was but the first step taken, that they were to legislate upon religious grounds, and it made no sort of difference which was the day asked to be set apart, which day was to be considered sacred, whether it was the first day or the seventh, the principle was wrong. It was upon this ground that the committee went in making their report.

The resolution that the committee be discharged was adopted; and three thousand copies of the report were ordered to be printed.

*Northeastern Boundary.*

The following resolution, submitted by Mr. McKINLEY, was taken up.

"Resolved, That so much of the President's message as relates to the appointment of the King of the Netherlands, umpire for the decision of the controversy with Great Britain, relating to the northeastern boundary of the United States, be referred to the Committee on Foreign Relations; and that said Committee inquire whether, by the treaty of Ghent, and according to the Constitution of the United States, the President alone has power to make said appointment."

Mr. McKINLEY said, that it appeared, by the treaty of Ghent, that several questions remained undecided; but that their decision was provided for by a reference to some friendly power. One of those questions had been decided by the Emperor of Russia. He wished to be understood, that, in offering this resolution, he did not intend it to operate in any manner as a party question. The predecessor of the present

JANUARY, 1839.]

Cumberland Road.

[SENATE.]

President of the United States having established a precedent in the appointment he had referred to, the great question in his mind was, whether the President of the United States had the power to make such an appointment. The treaty of Ghent provided that the boundary between the United States and Great Britain should be left to the commissioners to be appointed by the two Governments; and in case they could not agree, as another expedient, it was to be left to the umpirage of some friendly power, whose decision should be final and conclusive. It seemed to him that this award might be considered the conventional law of the United States until the umpire had decided, and his decision would be the supreme law of the land. It then came to the question, whether the President had power to make a treaty. The Government of the United States was bound to abide by the award of the umpire, and consequently could exercise no discretion. The Senate exercised no influence in this case, and consequently a treaty was made by the President. No one would pretend that the treaty of Ghent was a treaty of limits; it was a mere provisional treaty, providing expedients for the settlement of this question. By the Constitution of the United States, it was the duty of the President, by and with the advice and consent of the Senate, to appoint commissioners, ambassadors, &c. It was a question whether the power selected as an umpire was not, *ipso facto*, a Minister of the United States. If he is not a minister, where and how does he derive his authority to act for the United States? The President of the United States had power to make treaties and arrangements with individuals within the bounds of the United States; but it was provided that all nominations of ambassadors should come before the Senate. If no foreign prince was eligible to the office of Minister of the United States, no foreign prince could make a treaty for the United States. In the present case, the fate of the United States was solemnly pledged to abide by this award, and the faith of the country would be violated if that pledge was not redeemed. Now, would a treaty, based upon the award of an umpire, be binding upon the people of the United States, if there was no power to appoint this umpire? Here was an anomaly. The faith of the Government was pledged to abide by the award of the umpire, and the people of the United States not bound to abide by the decision, because there was no power to make this award. The precedent of settlements by umpirage had been established; but a single precedent should not grow into so much strength as to be engrafted upon the constitution. It was under these views that he had offered the resolution.

The resolution was agreed to.

TUESDAY, January 20.

Supreme Court.

Mr. WEBSTER, from the Committee on the

Judiciary, reported "An act in addition to an act, entitled 'An act to amend the Judicial System of the United States.'"

Mr. WEBSTER said, it was known that the Supreme Court was now holden by four judges only; the judge of the second circuit was recovering from a severe illness, and it was supposed he was now on the road; and the Judge of the Southern circuit had met with an accident, and was delayed in one of the Carolinas. What rendered the passage of the bill peculiarly necessary, was, that if, within ten days after the time settled for the meeting of the Court, there was not a quorum of the Judges assembled, the Court must adjourn, and the session be lost. If one of the four Judges now here should be taken sick to-morrow, the Court would be broken up, and the session closed. The second section of the bill provided that, when less than four of the Judges were assembled, they should adjourn from day to day, until twenty days after the first meeting, and then adjourn until the next annual session. If there was no objection, the subject was so important, that he would ask for the second reading at the present time.

No objection being made, the bill was then read a second time, and ordered to be engrossed for a third reading.

[Subsequently, the bill was reported as correctly engrossed; and, on motion, was read a third time, passed, and sent to the House of Representatives.]

#### Cumberland Road.

The bill providing for the extension of the Cumberland road westwardly from Zanesville, in the State of Ohio, was next taken up.

Mr. HENRICKS said, that, unless some objection was made to the passage of the bill, it was not worth while to go into a history of the road; it now went very near Zanesville, and this bill merely authorized its extension.

Mr. BRANCH said he could wish that this bill and every other similar bill could be postponed until the great question about the expenditure of the public money was settled. There was now a proposition before Congress, it was well known, which would settle this question; and would it not be well to postpone this bill until that time? Congress had been expending million after million, more than enough to pay the national debt, unjustly and partially. They could not avert the evil, but they might mitigate it; and he could wish the gentleman from Indiana would consent to postpone the bill, and lay it upon the table. Let us do justice, said Mr. B.; I do not wish to raise a revenue for the purpose of distributing it over the country; but let us adopt some principle to make our taxes as small as possible. A bill for this purpose was now before a Special Committee, and he wished to hear their report before acting farther.

He then moved to lay the bill upon the table, and asked the yeas and nays upon the question.

The motion was lost—ayes 16, noes 25.

Mr. BENTON said he would make some inquiry of the committee who reported the bill, which would perhaps supersede the necessity of his offering an amendment. The bill, as read by its title, was for extending the road westwardly. "Westwardly" was a very indefinite expression. The route for this road was marked out in the time of Mr. Jefferson, 20 years ago; there had been a great struggle made in Ohio and Kentucky to get the road turned off south, through Kentucky. All he wished to know was, whether the words of the bill were such as would carry into effect the original design of the Cumberland road.

Mr. HENDRICKS explained, that the bill provided for extending the road from Zanesville, through the States of Indiana, and Illinois, to St. Louis, in the State of Missouri.

The bill was ordered to be engrossed for a third reading.

WEDNESDAY, January 21.

*Land Claims in Missouri.*

The bill for the final adjustment of land claims in the State of Missouri was taken up.

Mr. BARTON rose in explanation of the objects of the bill. It was introduced, he said, in consequence of the Legislature of Missouri having taken up the subject, and asked that measures might be taken to produce a final decision with regard to the unconfirmed land claims in that State. The particular plan provided in the bill for the adjustment of these claims had been proposed by the committee as the most convenient one that could, in their opinion, be fallen on; but the bill was open for amendment, as it was of more importance to the State of Missouri that a final conclusion should be put upon the claims than as to the mode of doing it. The particular plan proposed in this bill was introduced in the Senate in the year 1824; the bill passed, and was sent to the other House for concurrence, where the plan of sending the claims to a Board of Commissioners for adjudication, was substituted instead of it.

Mr. CHANDLER thought it was premature to act upon the subject at this time, as there was a law upon the subject limited as to time. He thought it better to let the subject rest until the old law should expire.

Mr. BENTON was in favor of the bill. It was the copy of one which passed the Senate four years ago, went down to the House, and was not acted upon there; another bill, referring these claims to the Judiciary, being preferred by the House of Representatives, and sent up to the Senate, where it became a law. This law applied to claims of the same character both in Missouri and Arkansas, and in the latter place has answered a good purpose; in Missouri rather worse than no purpose at all. Many claims were settled in Arkansas, where three judges presided; all were condemned in

Missouri, where one judge presided. The same law, applying to the same class of claims administered by judges appointed by the Federal Government, has been construed just as differently as *yes* and *no*. It produced great discontent to have decisions in Arkansas one way, and decisions upon the other side of an invisible line, another way. Mr. B. was in favor of the bill; it was the copy of one drawn by himself four years ago; but he wanted an amendment, by having some other officers, or commissioners, associated with the recorder.

Mr. BARTON then submitted an amendment, providing for the appointment of two commissioners, by the President and Senate, in addition to the recorder; which amendment was adopted.

Mr. PRINCE was entirely in favor of the bill, and hoped it would be passed. It occurred to him, however, that it should be amended so that, when there were conflicting claims, the evidence should be reported to Congress. He accordingly moved an amendment having that object, which was agreed to.

Mr. BARTON then moved to fill the blank in the first section of the bill with the words "first day of August next," (the day on which the commission is to commence,) and to insert a provision fixing the salaries of the Recorder and Commissioners at fifteen hundred dollars each; which was carried.

On motion of Mr. CHANDLER, the bill was so amended as to make it the duty of the Recorder and Commissioners to assign, in their reports, "the reasons for their opinions so given."

The bill was ordered to a third reading.

*Claim of Maison Rouge et al.*

The Senate proceeded to the consideration of the bill "to provide for the legal adjudication and settlement of the claims to land therein mentioned."

[This is a bill providing for the settlement of the large claims of Maison Rouge, Bastrop, and Winter, which have been so long before Congress; and which was now proposed to be referred to a judicial decision.]

Mr. SMITH, of South Carolina, said the bill had been postponed at his request, and he would now call the attention of the Senate to a few observations. He was opposed to the passage of such a bill, because he was well assured that its provisions were contrary to the constitution. It was not competent for Congress to enact such a law, for no suit could be authorized which was contrary to constitutional principles. It was on that ground that he was opposed to it. The Constitution of the United States did not authorize, or sanction the principle; it did not authorize any citizen to sue the United States; and if the constitution did not give the right, the right could not be conferred by legislative enactment. There had been a time when suits were brought by individuals against some of the States, but the power had been regarded as one of an extraor-

JANUARY, 1829.]

*Claim of Maison Rouge et al.*

[SENATE.]

dimory nature, and it had been taken away. The right to sue a State did not now exist, if it ever did—it was expressly taken away; and yet Congress, by the passage of the bill, would assume to give the power which had been withheld. He was opposed to the bill on principle, on constitutional principles. He would not say that he was hostile to the claims, for he would be glad to lay his hand upon the evidence upon which they were founded; but he was opposed to the manner of settling those claims without constitutional authority, for which it was the object of the bill to provide. The cases reported were those of considerable magnitude. They had been recommended to Congress for decision: Congress had taken them into consideration, and the claims of *Maison Rouge* were once discussed for three weeks. He would offer, in opposition to the law which was proposed to be passed, *the Constitution of the United States*. The constitution would show that no such power could be exercised by Congress.

Mr. JOHNSTON, of Louisiana, regretted that the gentleman from South Carolina should have had any difficulty in laying his hands on the papers in relation to the claims under consideration, &c., &c., because he was satisfied that the bare allusion to them was calculated to have a much more unfavorable bearing on the subject than if the papers were produced; and he was disposed to postpone the consideration of the subject a sufficient time to enable the gentleman to examine the testimony, as he was decidedly of opinion that the production of them would convince the Senate of the necessity of speedily passing upon the claims. The titles to all these claims were of a similar character. That of Bastrop embraced about one million of acres of the richest portion of Louisiana, and was founded on a contract with the Spanish Government, signed by the King of Spain himself, six years before the country passed under the jurisdiction of the United States. We acquired that country, said Mr. J., under a contract that Congress would respect the claims to lands, which were founded on grants from the Spanish Crown; and in part fulfilment of that contract, a Board of Commissioners was constituted to investigate and report on the claims. That Board did report, and reported that the claims embraced in this bill were good; but Congress, unwilling to give to the commissioners, and reserving to itself, the power of final decision on them, they had remained as yet unjustified. When the commissioners made their report, Congress was applied to for a confirmation of their awards; and various opinions were entertained respecting them when the application came before the Senate. Some of the Senators believed that the claims were valid, others were of an opinion that they were illegal, and ought not to be confirmed; while a much larger portion of the Senators believed that this body was not a competent tribunal to try their validity. The claimants, said Mr. J., had now wait-

ed for twenty-five years, in the vain expectation of a final decision for or against them; much injury had resulted to them, and to the State, from the protracted delay; and inasmuch as the Senate had decided that it was not a competent tribunal to pass upon their claims, it followed as a matter of justice, that they ought to be sent to a judicial tribunal. The claims being founded on a written contract with the Spanish Government, the performance of the conditions of which had been suspended, it was incumbent on the United States, either to constitute a judicial tribunal to try their validity, or to fulfil the terms of the contract. Mr. J. did not himself assert that the claims were perfectly legal and valid, but that they were such as presented the most colorable title that the nature of the case would admit of. There was one consideration which should induce Congress to make some speedy and final distribution of the subject; it was this: the lands embraced in the claim were situated in one of the richest counties of the State of Louisiana, which, in consequence of the unsettled nature of the titles, remained waste and uncultivated. Moreover, whatever decision Congress might make on the subject, it could not annul the titles already existing; nor sell the lands: for if you proceed to sell, said Mr. J., the claimant can sue the person you sell to—thus reducing the price of the land sold to little or nothing, creating endless confusion, and retarding the settlement of the country for ten or fifteen years.

With regard to the claim of *Maison Rouge*, which comprehended only about 200,000 acres, it stood upon the same foundation with that of Bastrop; and was granted about the same time, and upon the same conditions, which he (Mr. J.) was informed by his colleague had been complied with. That, however, he waived, as the evidence went not to invalidate the titles, which were as well known in New Orleans, as the Declaration of Independence was in other parts of the United States; indeed, their validity was a matter of such notoriety, that the only question to be raised in Louisiana, was with regard to their location; and that question was one, which the courts alone were competent to decide. The locations, however, were made by the Surveyor General, an officer of great skill, and high character, and whose handwriting was as well known as that of any man in the United States, as early as 1797, and recorded among others, in a book kept by him for that purpose. Now if it were shown that the locations were recorded in the proper book, it would prove beyond a question that they were made in 1797. With regard to the third class of claims embraced in the bill, the lands granted to Winter and his two sons, the titles were precisely similar to the others; and this, as well as the others, could be settled by no other mode than that of a court constituted for the purpose. It was important to the public, to the State of Louisiana, and due to the faith of



the nation, pledged to these people, that the claims should be finally disposed of. The titles had been held up for twenty-five years; many of the original claimants were dead, and knew that many were held by minor children, and, on this account, the hardship of protracting the decision was the greater.

Mr. BENTON sympathized with the State of Louisiana. She had been hardly dealt with. She had been a part of this Confederacy for twenty-five years, and in all that time no more than 200,000 acres of land had been sold by the Federal Government. [Mr. JOHNSTON of Louisiana said only 185,000.] This is keeping the country a desert so far as the action of the Federal Government is concerned. At the same time, her private claims, to the amount of a million and a half of arpens, remained unconfirmed, to the great injury of the claimants. They could not make beneficial improvements; they could not make dykes and levees; they could not sell to any advantage; and they were subjected, as Mr. BENTON believed, to the payment of taxes. [The Senators from Louisiana, Messrs. JOHNSTON and BOULIGNY, in answer to a look of inquiry from Mr. BENTON, said they were subject to taxes.] All this is hard upon the claimants; but the State was a party to the injury. She suffered for want of population; for want of cultivation; for want of taxes; for want of dykes and levees. The whole upper country, the States up the river, was interested in having Louisiana populated. New Orleans was their magazine, and their store-house; it was the most exposed point in the Union; and upon every alarm of invasion, real or imaginary, the people of the upper country were called out. They had always gone with alacrity; would forever go with alacrity. But the State ought to have means of defence within herself, and the first of these means was population. People would have arms, and would use them for the defence of their country. It would be a beneficial grant to give to the frontier settlers tracts of land; they would maintain them against invasion, and in defending their firesides, their wives and their children, they would defend the country. There was bad economy on the part of the Federal Government in keeping this country waste—in waving a barren sceptre over it. It had to pay the expense of expeditions to defend it; and they lost the advantages of their cultivation—the increased wealth which their cultivation would give to the Federal Government. There was always a gain to the public in passing any property, especially landed property, from hands that could not use it to hands that could. This was eminently the case with the Federal Government; it made no profit out of its lands; it was not a cultivator; and it was a property which deteriorated in their hands, from daily, universal, and enormous depredations upon its timber. Mr. BENTON said, that he had not got up to plead the case of the claimants, nor of the State of Louisiana, which he considered as a party to

the bill; that task had been well done, skillfully and powerfully done, by the Senator from Louisiana, Mr. JOHNSTON; he merely rose to declare his concurrence in what had been said in favor of the bill; to express his sympathy for Louisiana for the manner in which she had been treated about her lands; to declare his conviction that she had been hardly dealt with; and that the Federal Government itself was a loser in the injustice done her.

Mr. BARTON did not agree with the gentleman from South Carolina, on the subject of the constitutional question. He believed there existed, in every Government, the power of giving to the citizen a remedy against that Government. The mode or manner of the remedy was another thing. As to the summoning of juries and witnesses, in cases of adjudication, there could be nothing unconstitutional in that. The constitutional right of all claimants was the same, and he did not believe it would be an infraction of the constitution to refer them all to judicial decision. The claims of Carondelet and Winter were of a similar kind, and might be referred. He thought the question more proper for the Judiciary than for Congress. It was, as he believed, no violation of the constitution, and he would wish to see the claims settled. He had been of opinion that a general bill upon the subject of such claims, would be most advisable; but the more he reflected, the more firmly he was of opinion now, that such a course would not answer, and that it was best to have the claims settled at home. Under the views which he had, he should vote for the bill.

On the question of engrossment for a third reading, Mr. SMITH, of South Carolina, called for the yeas and nays; it was decided in the affirmative.

YEAS.—Messrs. Barton, Benton, Bouigny, Bernet, Chambers, Chase, Eaton, Foot, Hendricks, Johnson of Kentucky, Johnston of Louisiana, Kane, Knight, McKinley, Prince, Ridgely, Robbins, Rowan, Sanford, Seymour, Silsbee, Smith of Maryland, Williams—23.

NAYS.—Messrs. Bell, Branch, Chandler, Dickerson, Hayne, Iredell, McLane, Marks, Ruggles, Smith of South Carolina, Tazewell, Tyler, White, Willey, Woodbury—15.

WEDNESDAY, JANUARY 28.

*Louisville and Portland Canal.*

The bill "authorizing a subscription on the part of the United States to the stock of the Louisville and Portland Canal," was taken up.

Mr. CHANDLER said he should like to have some reason assigned why the bill should pass.

Mr. ROWAN said, it was easy enough to give the reasons why this bill should pass. The canal could not be completed without the aid of the Government. Unfortunately the calculation of the Engineer employed to survey the route, and estimate the expenses, proved erroneous, and after the work was far progressed,

JANUARY, 1829.]

*Louisville and Portland Canal.*

[SENATE.]

it was found that the expense would far exceed the estimate. The canal was two miles and something less than a quarter in length, and cut out of the solid rock; much had been done; the locks were nearly completed; the excavated stone had been removed, and about two-thirds of the work was completed. Being thus delayed, the stock was below par, and many shares had been forfeited, in consequence of the non-payment of the amount called for. This forfeited stock could not be sold to individuals at par. The present bill provided that the Government should take it, and unless the Government did take it, the work could not be completed. The expenditures had already amounted to between two and three hundred thousand dollars; and it was calculated that the amount provided for in this bill would be sufficient to complete it. For this purpose, the Legislature of Kentucky had extended the time in which it was to be finished for the term of two years longer. It had proved to be a very great work, much greater than was ever anticipated by anybody who had inquired into the subject. He was not going into the question of the principle; it was merely a question upon the expediency of taking so much of the stock. It was believed by the stockholders that the stock would be good; and while, in a pecuniary point of view, the Government would not lose, he hoped the bill would pass without objection.

Mr. BRANCH wished his friend from Kentucky would suffer this bill to lie over, until the great question could be settled; it was known that there was a bill before the Senate providing for the distribution of the public money, doing justice to the country, and preventing the application, by Government, of money to purposes merely local. This bill went further than any bill that had ever been presented; by passing this bill, they were about to make good the insolvencies and bankruptcies of the State of Kentucky. And were gentlemen prepared to take this step? He trusted not: he hoped the bill would lie over. He was determined, in the general scramble for the public treasure, to get what belonged to North Carolina—nothing more; he did not want any thing more than her share. If there was any objection to this, he should like to have half a dozen members of the Senate cast the first stone—"those who live in houses of glass," &c., says the proverb. There was no gentleman in the Senate, who had not, at some time or other, made similar applications. His State, in common with others, had instructed him to demand what belonged to her; and what was he to do? Was it not his duty to obey his instructions? And yet he thought it was wrong, and he wished to arrest this method of applying the public money. If we have a sum to dispose of, let us do it equally and impartially. He regretted to hear the reasons given for that grant; and he regretted to hear the equal distribution of the revenue opposed upon constitutional grounds. By whom was this just method

opposed? Was it by those who had uniformly opposed the distribution of money? No; but it was by men who were always in favor of appropriating money for local objects. He did not censure the gentleman for asking for this grant, for it was no more than almost every member of the Senate had done. The constitutional question had been overlooked, and precedent after precedent had been established, until it was almost impossible to prevent it, or refuse the applicants. Let us, said Mr. B., in conclusion, check this system of legislation which should make every member of the Senate blush when he looks it full in the face. A new era is approaching, and let us make the basis of the new Administration upon equitable grounds. He hoped the bill would lie upon the table, until the bill reported by the gentleman from New Jersey, providing for the equal distribution of the surplus revenue, should pass, and the question be settled.

Mr. JOHNSON, of Kentucky, supported the bill, and, in reply to the remarks of Mr. BRANCH, assured the gentleman that, should any thing be found necessary for North Carolina, his vote should not be wanting. He was sorry they had been obliged to make this demand; he regretted as much as the gentleman from North Carolina did, the necessity of making it. The work was commenced, no fraud had been committed, all the proceedings were fair and honorable, and the enterprise had proved to be unlucky. The work was not one altogether local in its interests; the stockholders were not confined to Kentucky; they were to be found in the Western States, in the Atlantic States, and, he presumed, even in the State of North Carolina. He was satisfied that there would be no loss to the Government of the United States, either in principal or interest; the work was two-thirds done, and now they were checked by unforeseen consequences, and they appealed to Congress. If it was the first application of a similar kind, he would pause; but it was not; and would he pause, after what had been done, if the State of North Carolina, similarly situated, had made this demand? He would not. He, however, now took the ground that the Senate might reject it, and ought to reject it, if they considered it altogether as a local object. But, could that be called local in which the whole Western country was interested, which was important to more than four millions of people—more than fought the battles of our Revolution? If this was local, he wished gentlemen would tell him what was general. This was the only manner in which this Government could distribute money in the Western country: for, of the twenty-five millions, which were annually paid into the Treasury, for what legitimate object could it be expended in the West? There was none; and he was sufficiently latitudinarian in his construction of the constitution, to vote for similar bills. Mr J. offered a statement of the affairs of the company, which was laid upon the table.

Mr. JOHNSTON, of Louisiana, said he was satisfied of the necessity of the work, and, from an examination of the report, he was satisfied that the affairs had been properly managed, and the money properly expended. He believed the work would be a profitable one: the increase of trade in that section of the country was inconceivable. There was no place in the country in which so large a portion of the country was connected by so short a canal. A reason for the immediate passage of the bill was, that the waters will soon rise, and obstruct the work. They were already in possession of all the information they could have; and unless the bill passed immediately, it could not pass the other House; and consequently the whole work would be postponed for another twelve months. The work, said Mr. J., will be completed within the amount contemplated in the act of incorporation. The resources of the company, including capital, property, &c., were fully adequate to the completion of the canal.

Mr. BENTON supported the bill on the grounds of its importance; that it was not a new application; and that it would not be any loss to the United States.

The question on ordering to a third reading was decided in the affirmative.

YEAS.—Messrs. Barton, Benton, Boulogny, Burnett, Chase, Chambers, Eaton, Hendricks, Johnson of Kentucky, Johnston of Louisiana, Kane, McKinley, McLean, Marks, Noble, Ridgely, Robbins, Rowan, Ruggles, Seymour, Silabee, Smith of Maryland, Webster, Williams—24.

NAYS.—Messrs. Bell, Berrien, Branch, Chandler, Dickerson, Foot, Hayne, Holmes, Iredell, Knight, Prince, Sanford, Smith of South Carolina, Tazewell, Tyler, White, Willey, Woodbury—18.

THURSDAY, January 29.

### *The Judiciary.*

The report of the Committee on the Judiciary on the resolution instructing them to consider the expediency of amending the Judicial System of the United States so as to equalize the distribution of justice, and place all the States on a similar footing, was considered.

Mr. BERRIEN said, the resolution was upon a subject of great magnitude and importance; it had excited great interest in the National Legislature, both now and at other times. The committee were instructed to inquire into the expediency of amending certain alleged inequalities in the present organization, and suggest such measures as in their opinion would remedy the difficulty. So far as regarded the present Judicial system, no diversity of opinion was entertained in the committee; all agreed that there was an inequality, which should be removed; but when the committee came to inquire what was the remedy, they found it impossible to report any specific plan. The result had been, that, in their report, they had

gone into a historical account of the Judicial system, showing the inequalities, and stated their inability to concur in any specific plan. Their object had been to present the subject to the consideration of the Senate in such a manner that it should be open to the members of the Senate, whether belonging to the committee or not, to suggest any specific plan for the removal of this evil. It was, perhaps, a subject of too much importance to be discharged at the present moment, and it appeared to him to be a more appropriate treatment of the subject to lay it upon the table, that it might be called up at some future time. Accordingly, he moved to lay the report upon the table.

Mr. WEBSTER added, very briefly, that the conclusion of the report suggested several modes in which the inequalities might be removed; and the subject had become one of so much importance, that he wished to have it brought before the Senate. If it could be made the order of the day for some early day hereafter, he should prefer it to having it laid upon the table; but he was willing to agree in any measure thought most expedient.

Mr. BERRIEN said he was willing to have it made the order of the day, if, when that arrived, the Senate would be prepared to act upon it. But they probably would not; if it was laid upon the table, it could be called up at any moment, and discussed. Therefore he renewed his motion, and the bill was laid upon the table.

### *School Lands.*

On motion of Mr. BARTON, the Senate proceeded to consider the bill allowing the relinquishment of the sixteenth sections appropriated for schools in the State of Mississippi, and the entry of other lands in lieu thereof.

Mr. BARTON moved to strike out the word "Mississippi," and insert "any township in any State or Territory of the United States," which was agreed to.

On motion of Mr. WILLIAMS,

The amendment offered yesterday by Mr. SANFORD to a similar bill for the State of Louisiana, was incorporated with this bill.

Mr. EATON moved to insert the words "in all cases," which was agreed to.

Mr. BRANCH said he could view these grants of the public lands in no other light than as pure donations, without any equivalent at all. He would ask the gentlemen, when they were giving the lands away, why they would not give to the old States? He appealed to their liberality. He wished the bill to be amended to that effect. He believed he should get at his object more readily by the recommitment of the bill, and he therefore made the motion, for the express object of making some provision for the old States.

Mr. KANE explained the bill. In the settlement of the terms upon which the new States were admitted, the sixteenth section in each township was reserved for the use of schools;

JANUARY, 1829.]

*School Lands.*

[SENATE.]

in many cases this sixteenth section had proved to be barren and unproductive, and the bill provided that, in such cases, the town should be allowed to select good land, in order that the original intention might be carried into effect. Now, said Mr. K., if North Carolina is laboring under the disadvantages of having bad school lands granted to her, she is already provided for by the amendment of the gentleman from Missouri. If North Carolina has no such lands, she has no interest in the bill. If the gentleman wished for a new grant, he would suggest whether it was proper to incorporate it with the present bill, which was for another purpose?

Mr. BRANCH said he was not in Congress at the time, but he remembered perfectly well, some ten or fifteen years ago, when new States were admitted, when this provision was made, that the old States made a claim for a similar grant, which was resisted on the ground that this was not to be considered as a donation, because the Government would receive an equivalent in the enhanced value of its own lands situated adjacent to such school lands. He would ask how they received an equivalent, when such lands were worth nothing? If they received no equivalent, then it was a donation.

Mr. BARTON then took the floor in opposition to the recommitment, and recapitulated the terms upon which the States were admitted, and the reservations made; and concluded by saying, as he had a thousand times before said, that the new States did not consider this grant of a section for the benefit of schools, as a donation, for the Government received an equivalent in the privileges granted.

Mr. HENDRICKS said that the proposition of the Senator from North Carolina opened a wide field, and embraced principles which he had not expected would be drawn into the argument in this incidental way. He alluded to the compacts, the principles on which the new States were entitled to admission into the Union, and the principles on which they were admitted. The Senator from Missouri (Mr. BARTON) had said, that the new States had been greatly prejudiced by the compacts. In that opinion he fully concurred. It was his opinion that the new States would be benefited by annulling those compacts, and he had heretofore expressed that opinion to the Senate. He repelled the idea that the compacts had been made for the benefit of the States; said they had been enacted by law, and originally imposed on the States, rather than asked for by them; said their validity had been questioned, and might well be questioned, on various grounds; referred to the resolutions of Louisiana, and to the proceedings of the Legislature of Indiana, on the subject of the public lands, and to the proximate attitude of Alabama, Illinois, and Missouri, on the same subject. The doctrine, that any political community may transfer to another political community its sovereignty, or a portion of it, might well

be questioned, and the doctrine of the perpetual obligation of those compacts, was surely very objectionable. It was in derogation of a principle at the basis of our institutions—the principle which asserted the right of every free people to change and modify their constitution and laws, from time to time, as their condition may require. He would strictly observe the faith of compacts, but it was surely allowable to suggest every objection to them. He denied the power of the States to transfer the right of their own soil to the Federal Government, and the power of the Government to accept such transfer; and said, that, for this opinion, there was the highest authority. He referred to the construction of the constitution, given by Mr. Monroe, in his veto on the Gate bill, and to a recent argument in the other House, on the same subject; he would not enter further into the argument, but disclaimed the allegation that the compacts were made for the benefit of the new States. If the Senator from North Carolina had, in his State, vacant lands, and wished to appropriate them to the purposes of education, he would not object, but he did object to an appropriation of the soil within the limits of the State he had the honor to represent, for those purposes in North Carolina.

Mr. BARTON said, if it was true that there was no validity in the compact, as it was called, although he considered it no compact, but merely an arrangement between owners of property for the disposal of that property, on the supposition that the individuals, when making the contract, for their descendants were but as minors, then the gentleman from North Carolina was manifestly right in his proposition to admit the old States. He did not himself consider these compacts invalid; he considered them merely arrangements between all the owners of a common property to dispose of that property. He could not discover any objection to the claims of the old States that had school lands. He thought the new States were entitled to such lands as were granted to them for the use of schools without the old States coming in. He did not see that there was any invalidity on the ground of minority, and believed the whole argument wrong: for it was an arrangement made between parties fully competent.

Mr. HENDRICKS replied, that the Senator from Missouri (Mr. BARTON) had said, in reference to his former remarks, that if the compacts were of no validity, then certainly the proposition of the Senator from North Carolina was correct—for then the public lands, unembarrassed by all restrictions, would belong to the Union, and might fairly be distributed among the States. He wished to be correctly understood. Perhaps the word validity would not so well express his meaning as some other word. He cared not for terms, but thought it was absolutely certain that the Congress of the United States, in passing laws requiring these compacts, understood the subject very differ-

ently from the Senator from Missouri. Congress had required the new States to stipulate that they would not interfere with the primary disposal of the soil, and that they would not tax the lands for a specified period after their sale. Now if the Congress of that day believed that the States, without these compacts, after their admission into the Union, would have no such power, why was it thought necessary to restrict them by compacts? It is evident that Congress believed the power would exist in the States, or they would have taken no measures to restrain its exercise—would not have imposed the compacts. He would respect the compacts while they had the form of existence, but it would surely be permitted to the new States, even at this late day, to say, that they had hard bargains, and that Congress ought not to retain the advantages they gained. Mr. H. spoke of the political balance which had originally adjusted the powers of government between the States and the Union, and said that, if this balance were destroyed by cessions, on the part of the States to the Federal Government, whether of abstract political power or the object of its exercise, their system was destroyed.

Mr. BERRIEN said he had given a notice yesterday, and, for the purpose of redeeming his pledge, he moved to lay the bill upon the table, and that the Senate proceed to the consideration of Executive business; which motion prevailed.

THURSDAY, February 5.

*Exploring Expedition to the Pacific Ocean and South Seas.*

The following resolution, yesterday submitted by Mr. HAYNE, was taken up for consideration:

"Resolved, That the President of the United States be requested to cause to be laid before the Senate a detailed statement of the expenses incurred in fitting out and preparing an expedition for exploring the Pacific Ocean and South Seas; together with the additional amounts which will be necessary to cover all the expenses of such an expedition. And that he be also requested to cause to be submitted a detailed statement, showing the several amounts transferred from the different heads of appropriations for the support of the navy to this object, and the authority by which such transfers have been made."

In explanation of the object of the resolution—

Mr. HAYNE said it had been submitted by him under the direction of the Committee on Naval Affairs. A bill from the House of Representatives, appropriating 50,000 dollars for the purpose of exploring the Pacific Ocean and South Seas, had been referred to that committee, in consequence of which, their chairman had been directed to address a letter to the Secretary of the Navy, requiring of him an explanation of the views of the Department as to

the objects of the expedition, and a statement of the expenses already incurred, with an estimate of the further expense that would be incurred in fitting it out. An answer had been received from the Secretary, which was not altogether satisfactory to the committee. He had given an explanation of the plan of the expedition, and what had already been done in furtherance of it; stated some of the expenses which had been incurred, but did not give all the information required. The want of the accounts was the reason alleged why the desired information had not been afforded. In the examination of the subject by the committee, some circumstances had occurred, which induced them to submit this call. In order to present to the Senate the views which influenced the committee, he would give a brief history of this exploring expedition, and state what had already been done in reference to this subject.

At the last session of Congress, the projector of the expedition came to Washington, bringing with him several memorials, signed by persons of respectability, praying that Congress would either fit out an expedition for the purpose of making explorations at the South Pole, or that they would aid in fitting out such an expedition. The memorials were referred to the Committee of Naval Affairs, in the other House, who communicated with the head of the Navy Department on the subject; and he held in his hand the letter of the Secretary of the Navy to that committee, from which he would read a few extracts for the information of the Senate. [Here Mr. H. read from the letter of the Secretary as follows:]

"The expedition ought not to be large nor expensive. Other nations have erred on this point. It seems to be the desire of the memorialist that Congress should *afford aid*, not furnish the whole expense. If this mode be preferred by the committee, all that the bill need provide is, that 'the sum of—dollars be appropriated to aid in fitting out an expedition to explore the Pacific Ocean and South Seas.' If it be the intention that the whole expense should be borne by Government, the bill ought to provide, 'That the President of the United States be, and he is hereby, authorized to cause to be fitted out an expedition to explore the Pacific Ocean and South Seas; and that the sum of—dollars be, and the same is hereby appropriated for that object.' The blank ought to be filled with 45,000 or 50,000 dollars."

On the receipt of this communication from the Secretary, (said Mr. H.,) the committee reported a bill, similar, he believed, in all its provisions, to that now before the Senate, taking the whole matter into the hands of the Government, authorizing the President to cause the expedition to be fitted out, and appropriating 50,000 dollars for that object. The committee reported the bill some time in March, but it was not acted on—Congress being either unwilling to act upon the subject at all, or not having time to do so. Congress

FEBRUARY, 1829.]

*Exploring Expedition to the Pacific Ocean and South Seas.*

[SENATE.]

having omitted to pass the law, there was, of course, an end of the matter. Within a few days of the close of the session, however, viz: on the 19th of May, a member of the House submitted the following resolutions, which, on the 21st of the same month, were considered and agreed to by that House, viz:

*Resolved*, That it is expedient that one of our small public vessels be sent to the Pacific Ocean and South Seas, to examine the coasts, islands, harbors, shoals, and reefs, in those seas, and to ascertain their true situation and description.

*Resolved*, That the President of the United States be requested to send one of our small public ships into those seas, for that purpose; and that he be requested to afford such facilities as may be within the reach of the Navy Department, to attain the object proposed: Provided it can be effected without prejudice to the general interest of the naval service; and provided it may be done without further appropriations during the present year.

These resolutions were never sent to the Senate for their concurrence, and consequently could not be considered as sanctioned by Congress. Nevertheless, the Secretary of the Navy had acted upon the subject, in the same manner as he would have done, not only if the resolutions had passed both Houses, but as if the original bill had become a law. The specific appropriations made for the general purposes of the Navy had been applied, at pleasure, towards this object; and now this bill is sent to us for our approbation, going to sanction what had already been done by the Secretary. This was its object. It appeared to the committee as of the last importance that this matter should be carefully looked into. The Senate was a co-ordinate branch of the Legislature, and no appropriation could legally be made for a public object without their concurrence. Whether appropriations made by law for particular objects should be suffered to be transferred to those which were not authorized by law, was a question which it was desirable to bring to the view of the public. The resolution (Mr. H. said) furnished no authority for what had been done in this case. And he quoted that clause of the constitution which provided that "every order, resolution, or vote," to be obligatory, must have the sanction of both Houses, and be approved by the President. An appropriation bill had no effect, unless passed by both Houses, and approved by the President; and the rule was the same as to resolutions requiring the appropriation of money, or which related to any matter of public concern. But if these resolutions of the House of Representatives could be considered as an authority, they had not been pursued.

Mr. H. then commented on the resolutions passed by the other House, and explained their object. They provided for sending out *one of our small vessels*, provided it could be done without injury to the public service, and without any increase of expenditure: in other words, that one of our small cruising vessels

might be detached on this service. But the measures pursued by the Secretary were the same as if the law now before the Senate had been passed during the last session. It seemed the Secretary had considered the resolution in the light of a law, giving him an unlimited discretion. What had been done? Why, the *Peacock* had been rebuilt, at an expense probably exceeding the construction of a sloop of war; she had been doubly timbered, and otherwise fitted for this particular service. A brig had been purchased at an expense of ten thousand dollars, (with the understanding, it is true, that, if the expedition was not sent out, she should be taken back by her owners.) A schooner was also to be procured, to serve as a provision ship. An agent had been employed to procure information, at an expense of from five hundred to one thousand dollars; and in addition to the naval officers selected for the service, a scientific corps had been organized: five or six persons, such as an astronomer, a naturalist, a draughtsman, and surveyors, had also been engaged, together with an historiographer. One of these was to make observations on our commerce, another was to write the history of the expedition, &c.

The salaries of these officers, we are informed, would each average about 1,600 dollars per annum—some considerably more, and some less. The mathematical instruments had cost about 2,000 dollars; in addition to which, extra supplies and provisions were to be procured. These were some of the expenditures already contracted for, and incurred, which had been drawn without any lawful authority from the appropriation for the navy. It was important to have full information on this subject; a detailed statement was required of all the actual expenditures which had been made, of the items of which it consisted, as well as the whole amount, and of what would yet be required to cover the whole expense of the expedition. The importance of the exploring expedition was nothing, in comparison with the question—one of the most important that could be discussed—of the power assumed by the Executive to transfer, at pleasure, appropriations made by law to certain objects, to another and distinct object, not having the sanction of Congress. How far Congress would subsequently sanction, and thereby legalize such a practice, was a very important question. We require, before making our appropriations for the naval service of the year, that the estimates shall be submitted to us, down to the smallest contingency; and yet these might always be diverted to other objects.

With regard to this South Polar expedition, he repeated, there was no law to sanction it. Yet the whole country had been led to believe that there was such a law, and the Department had transferred, at pleasure, appropriations made by law to other objects, to fitting out a magnificent expedition. He would call the attention of the Senate to another view of the

subject. It was impossible the public should ever know how much this expedition would cost, without calling for this information. He would venture the assertion that, instead of \$50,000, it would cost nearer half a million. He had a statement before him—it had been made hastily, and was only an estimate, he admitted—but he believed it was sufficiently accurate at least to serve the purposes of illustration, so as to put this matter in a proper light. First, the Peacock had been rebuilt—at what cost he did not know—but most probably at an increased cost over an ordinary sloop of war. Take the Boston sloop, which was built at one of the cheapest yards in the country, as an example; she cost the Government 96,000 dollars—the Peacock might perhaps be put down at a hundred thousand, when fitted out and fully prepared for sea. A brig had been purchased at 10,000 dollars, and would probably require 5,000 for repairs, and as much more to fit her properly for the expedition. The provision ship, probably 20,000 dollars. The Secretary of the Navy estimates her at 15,000—making 185,000 dollars. The agent 1,000; instruments 2,000 dollars; contingencies 10,000 dollars. Then come the provisions, and support of these vessels at sea. Ordinary sloops of war required, he believed, about 40,000 dollars per annum; schooners, about 20,000 dollars; say, for the three vessels employed, 80,000 dollars; contingencies 10,000, making 100,000 dollars, in round numbers, per annum. It was probable the expedition would not be completed in less than three years, (the Secretary estimates two years and a half,) making 300,000 dollars. Add to this the wear and tear of the vessels, &c., and it would be seen that, before this expedition is completed, the whole expense would probably not fall much short of half a million of dollars. True, the bill appropriates but 50,000 dollars; but this is in addition to what has already been expended, and the sums to be hereafter expended, out of the navy appropriations. He would not pretend this statement was at all accurate, but it was quite sufficient to show that information was wanted from the Department, that we might form some correct idea of the cost to the country of this expedition, in order to determine if it was worth our while to prosecute it.

Mr. H. said that the committee were influenced by these views, in calling for the information required by this resolution. The merits of the expedition were not intended to be now discussed; but, however important it may be considered by some gentlemen, it was deemed more important not to sanction the measures that had been pursued in this business. For himself, he would say, that he considered the plan of the expedition, as disclosed in the letter of the Secretary of the Navy, as extremely objectionable. Here was a scientific corps, created by the mere will of an Executive officer, already selected, and only waiting for the passage of this bill to receive their appoint-

ments. They were to receive salaries of from 1,500 dollars to 2,000 or 3,000 dollars, and they were to perform duties which would reduce the officers of the navy connected with the expedition to insignificance. The observations—commercial, astronomical, and scientific—were all to be made and reported to Government by these gentlemen, and one of them was finally to write and publish the history of the voyage. What, he would ask, was to be left to the naval officers? They were merely to command the sailors and to navigate the ships. The Captain (as gallant and intelligent an officer as any in the navy service) was to incur all the responsibility, without sharing in the honor that might be acquired. If it should be the opinion of the Senate that this bill ought to pass, and that the expedition be now sent out, for the credit of the Navy he should endeavor to have it put on a better footing. The officers of the navy, as it was at present organized, were to be mere navigators; this did not meet his approbation; he would have them at the head of the expedition; and the scientific corps should be their mere agents and instruments. To the navy should belong the glory of the enterprise, if any glory was to be acquired in it.

The resolution was agreed to.

MONDAY, February 9.

#### *Counting Electoral Votes.*

MR. TAZEWELL, from the Joint Committee appointed for the purpose, reported, in part, the following resolution:

*“Resolved, That the two Houses shall assemble in the Chamber of the House of Representatives, on Wednesday, the 11th day of February, 1829, at twelve o'clock; that one person be appointed Teller on the part of the Senate, and two persons be appointed Tellers on the part of the House, to make a list of the votes for President and Vice President of the United States, as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce to the two Houses, assembled as aforesaid, the state of the vote, and the person or persons elected, if it shall appear that a choice hath been made agreeably to the Constitution of the United States; which communication shall be deemed a sufficient declaration of the person or persons elected, and, together with a list of the votes, shall be entered on the journals of the two Houses.*

The report was read and agreed to, and Mr. TAZEWELL was elected Teller on the part of the Senate.

TUESDAY, February 10.

#### *South Carolina Protest against the Tariff of 1828.*

MR. SMITH, of South Carolina, presented the following protest of the State of South Carolina, against the system of duties lately established by the Government of the United States:

FEBRUARY, 1829.]

*South Carolina Protest against the Tariff of 1828.*

[SENATE.]

"The Senate and House of Representatives of South Carolina, now met, and sitting in General Assembly—through the Honorable WILLIAM SMITH, and the Honorable ROBERT Y. HAYNE, their Representatives in the Senate of the United States—do, in the name and on behalf of the good people of the said Commonwealth, solemnly protest against the system of protecting duties lately adopted by the Federal Government, for the following reasons:

"1. Because the good people of this Commonwealth believe that the powers of Congress were delegated to it in trust for the accomplishment of certain specified objects, which limit and control them, and that every exercise of them for any other purpose, is a violation of the constitution, as unwarrantable as the undisguised assumption of substantive independent powers, not granted or expressly withheld.

"2. Because the power to lay duties on imports is, and, in its very nature, can be, only a means of effecting the objects specified by the constitution; since no free Government, and, least of all, a Government of enumerated powers, can, of right, impose any tax, (any more than a penalty,) which is not at once justified by public necessity, and clearly within the scope and purview of the social compact; and since the right of confining appropriations of the public money to such legitimate and constitutional objects is as essential to the liberties of the people, as their unquestionable privilege to be taxed only by their own consent.

"3. Because they believe that the Tariff Law, passed by Congress at its last session, and all other acts of which the principal object is the protection of manufactures, or any other branch of domestic industry—if they be considered as the exercise of a supposed power in Congress, to tax the people at its own good will and pleasure, and to apply the money raised to objects not specified by the constitution—is a violation of these fundamental principles, a breach of a well-defined trust, and a perversion of the high powers vested in the Federal Government for federal purposes only.

"4. Because such acts, considered in the light of a regulation of commerce, are equally liable to objection; since, although the power to regulate commerce, may, like other powers, be exercised so as to protect domestic manufactures, yet it is clearly distinguished from a power to do so *eo nomine*, both in the nature of the thing and in the common acceptance of the terms; and because the confounding of them would lead to the most extravagant results; since the encouragement of domestic industry implies an absolute control over all the interests, resources, and pursuits, of a people; and is inconsistent with the idea of any other than a simple consolidated Government.

"5. Because, from the coteremporaneous expositions of the constitution, in the numbers of the *Federalist*, (which is cited only because the Supreme Court has recognized its authority,) it is clear that the power to regulate commerce was considered by the convention as only incidentally connected with the encouragement of agriculture and manufactures; and because the power of laying imposts, and duties on imports, was not understood to justify, in any case, a prohibition of foreign commodities, except as a means of extending commerce, by coercing foreign nations to a fair reciprocity in their intercourse with us, or for some other bona fide commercial purpose.

"6. Because, whilst the power to protect manufactures is nowhere expressly granted to Congress, nor can be considered as necessary and proper to carry into effect any specified power, it seems to be expressly reserved to the States by the tenth section of the first article of the constitution.

"7. Because, even admitting Congress have a constitutional right to protect manufactures by the imposition of duties, or by regulations of commerce, designed principally for that purpose, yet a tariff, of which the operation is grossly unequal and oppressive, is such an abuse of power as is incompatible with the principles of a free Government and the great ends of civil society, justice, and equality of rights and protection.

"8. Finally, because South Carolina, from her climate, situation, and peculiar institutions, is, and must ever continue to be, wholly dependent upon agriculture and commerce, not only for her prosperity, but for her very existence as a State—because the valuable products of her soil, the blessings by which Divine Providence seems to have designed to compensate for the great disadvantages under which she suffers in other respects, are among the very few that can be cultivated with any profit by slave labor; and if, by the loss of her foreign commerce, these products should be confined to an inadequate market, the fate of this fertile State would be poverty and utter desolation; her citizens in despair, would emigrate to more fortunate regions, and the whole frame and constitution of her civil polity be impaired and deranged, if not dissolved entirely.

"Deeply impressed with these considerations, the Representatives of the good people of this Commonwealth, anxiously desiring to live in peace with their fellow-citizens, and to do all that in them lies to preserve and perpetuate the Union of the States, and the liberties of which it is the surest pledge—but feeling it to be their bounden duty to expose and to resist all encroachments upon the true spirit of the constitution, lest an apparent acquiescence in the system of protecting duties should be drawn into precedent, do, in the name of the Commonwealth of South Carolina, claim to enter upon the Journals of the Senate their protest against it, as unconstitutional, oppressive, and unjust.

"HENRY DEAS,

*President of the Senate.*

"BENJ. FANEUIL DANKIN,

*Speaker of the House of Representatives.*

[L. S.] STEPHEN D. MILLER."

Mr. S. said that, in presenting this protest, it was not his purpose to go fully into the objections which could be raised against the system, but it was his intention to make a few remarks, suggested by the occasion. South Carolina believed that when, as a sovereign State, she surrendered a portion of her territory, it was for certain and specified objects; and that, when those objects were accomplished, the authority ceded to the General Government was at an end; that any measures pursued beyond the objects first contemplated, was a violation of the compact: It belonged to the States to resume the authority. South Carolina did not assent to the postulate, that the authority was ever delegated to the Government, which the Government had assumed, over indi-



viduals and property composing the State. South Carolina had a deep interest in the Government. She had been as patriotic as any State in the Revolutionary contest. In that struggle, she furnished her full proportion of resources; she spilt her due proportion of blood; and in point of privations, waste of property, and individual suffering, there she was without a compeer. She had been content to obey all the requisitions of the General Government, and she had done so, from the reflection that her sufferings were not for the benefit of one member only, but of the whole Union. She had surrendered what, upon the consideration of wealth, would have placed her among the most opulent States in the Union, had she retained it. And she had done it for no other compensation, with no other intention, with no other desire, than her expectation of the protection of the General Government. After that struggle was over, she was an independent sovereign; she owed no allegiance to the Government of the whole, except by the compact to pay her portion of the expenses of the war. She then surrendered to the General Government a part, the profits of which were second to few, if any, in the Union, and which, except for the present circumstances, would be second to but one in the country. All this South Carolina, perfectly informed of the objects to be attained, was willing to yield for the sake of union, and was willing to add her strength to that of the others, that she might have their strength to protect her rights. She surrendered almost every thing in receiving the constitution, and obtained nothing more from the Government, than her own sovereignty already gave her. She gave up her wealth for the security of the other States. South Carolina, in yielding all this, never regretted that she did so, until she found that her rights were not secured as she expected they would be. Laws were passed which restrained her citizens, and discouraged her industry, and her wealth was taken and bestowed upon the citizens of other States. Although suffering all these wrongs, South Carolina never refused the demands of the Government. In the last war, her citizens were not only vigilant to observe the laws themselves, but they used unusual vigilance to defend them against the infractions of others. During seven years of the old war, it was her pride to suffer for the general good; and upon the return of peace, the face of her country was indeed a dreary waste. She had risen again, but after three years of the last war, she was again reduced; your embargo and your non-intercourse laws had prevented her sending out her products; she was obliged to retain them, and on the return of peace a second time, she was again in poverty. News of the peace was received in February, 1815; a law imposing an extra duty for the protection of manufactures dragged on the heels of that declaration. You were then told, for the first time, that there was a great and important manufacturing inter-

est in the country, which called aloud for your protection. Carolina yielded, under the impression that the stipulation was to render protection to any State, even if it was not for the general good. When Congress laid double duties for the protection of the war, and it was with difficulty that you got along with your double duties, when the war was at an end, and the duties to be repealed, you were told that you had committed yourselves—that you were pledged to protect the manufacturers. The double duties were retained. This was yielded to under a pledge that it was only for a few years; that in a short time, the manufacturers of this country would be able to compete with those of other countries; that then the people would be satisfied, and the duties would be reduced. So far from this, the manufactures had increased; the prosperity of one had induced others to embark in the business, and there had been constant applications for new duties, which had been granted. South Carolina has protested against these duties; he did not know that the constitution acknowledged this principle; he did know that the constitution had not lately been looked to. Constitutional arguments had been used, which had never been replied to.

Since the year 1816, there had not been any attempt to increase the duties, which had not been opposed, but had been met by memorials and petitions from South Carolina. To whom had they been referred? To the Committee on Manufactures. Twelve months ago, the Legislature of South Carolina remonstrated, and in strong terms, against any more protecting duties. And this, too, had gone to the Committee on Manufactures. Petition, and remonstrance, and protest, had been presented, and they had all been referred to the Committee on Manufactures. What had been the result? Whether there was no intention to attend to them, when referred, or what motives had actuated them, he did not know, but he had never seen from that committee any detailed report upon what grounds they had considered them, and decided against them. The committee always came in with a bill, or rather an amendment to a bill, putting on additional duties, but never accompanied by any report giving their reasons. They had, in argument, said the good of the country required the additional duty; and, year after year, the memorials from South Carolina had slept in the archives of the Senate, if, indeed, they had ever been honored with a place there. They had been read from the desk of the Secretary when presented, and never seen the light again.

Mr. HAYNE rose and said, that the importance of the subject, and the intense interest it had excited among his constituents, must be his apology for adding a few words to what had fallen from his colleague. He knew that every thing which proceeded from so high a source as one of the sovereign and independent States of this Confederacy, was entitled to receive, and, he trusted, always would receive, the most respectful consideration here. It was not

FEBRUARY, 1829.]

*Counting Electoral Votes.*

[SENATE.]

so much, therefore, (said Mr. H.,) to invite the earnest attention of the Senate to this protest, as to do justice to my own feelings, and to fulfil my obligations as one of the Representatives of South Carolina, that I now proceed to make a few remarks, suggested by the occasion.

One of the most unhappy circumstances connected with the present condition of the Southern States was, the great, he might, perhaps, say, the insuperable difficulty of causing their sentiments and feelings to be made known, so as to be understood and appreciated by their fellow-citizens in other quarters of the Union. Viewing the United States as one country, the people of the South might almost be considered as strangers in the land of their fathers. The fruits of their industry had, from the policy pursued by the Federal Government, for many years past, been flowing to the North, in a current as steady and undeviating as the waters of the great Gulf; and as the sources of our prosperity were drying up, that reciprocal intercourse which had softened asperities, and bound the different parts of the country together, in the bonds of common sympathy and affection, had, in a great measure, ceased. That close and intimate communion, necessary to a full knowledge of each other, no longer existed, and in its place there was springing up (it is useless to disguise the truth) among the people in opposite quarters of the Union, a spirit of jealousy and distrust, founded on a settled conviction, on the one part, that they are the victims of injustice, and on the other, that our complaints, if not groundless, may be safely disregarded. The people of the South are well aware of the evils growing out of this unhappy state of things; and of none are they more deeply sensible than that (from causes to which I shall not now advert) the eyes of our brethren have been closed to our true condition, and their hearts shut against our just complaints. Although South Carolina, in common with several of her sister States, had, on former occasions, avowed the principles contained in the protest, yet, it may be well doubted (if we are to judge from what we hear and see around us) whether it is believed, north of the Potomac, that she really entertains them: for, in the face of the solemn declarations of her people, and their Representatives, denouncing the policy pursued by the Federal Government, as involving them in ruin, we still find the public ear abused, and the public mind deluded, by exaggerated statements of our uninterrupted prosperity and happiness. It has ever been innuendated, here, at the very seat of Government, that the enlightened public opinion of the South is in favor of this policy, and that the excitement which prevails there is merely "artificial," if it has not been "got up for party purposes."

Sir, this state of things, let me assure gentlemen, must not be suffered to continue, or it will inevitably lead to the most unhappy consequences. It has become necessary, therefore—

indispensably necessary—that the sentiments of our constituents should be expressed in the most deliberate and imposing form, in a manner no longer to be misunderstood or misrepresented. The Legislature of South Carolina, coming directly from the people, have, at their late session, with a unanimity without example, instructed their Senators to lay this their protest before you. In obedience to that command, my colleague and myself here, in our places, in the presence of the Representatives of the several States, and in the face of the whole American people, solemnly protest against the system of protecting duties, as "UNCONSTITUTIONAL, OPPRESSIVE, and UNJUST." We desire that this record may bear witness for us to all future times, that we have earnestly remonstrated with our brethren against the extension of an unwarrantable jurisdiction over us; and with full experience of the ruinous effects of the system of protecting duties, have denounced it as utterly destructive of our interests. The people of South Carolina find themselves impelled, by their attachment to the principles of the constitution, and by a proud recollection of common dangers, and common triumphs, to endeavor to preserve for themselves and their posterity, those rights and privileges secured to them by the great Charter of our Liberties, and consecrated by the blood of our fathers. It is (to use the language of the protest) "because they anxiously desire to live in peace with their brethren, to do all that in them lies to preserve and perpetuate the union of the States, and the liberties of which it is the surest pledge," that they now protest against a system, which not only aims a fatal blow at the prosperity of South Carolina, (dependent as she must ever continue upon agriculture and commerce,) but which threatens her very existence as a State.

Mr. DICKERSON, in reply to the remarks of Mr. SMITH, upon the Committee on Manufactures, showed that the State of South Carolina had never experienced the least disrespect in regard to her memorials; but they had been printed, and were on file.

Mr. SMITH said, if the Chairman of the Committee on Manufactures would show him a succinct report upon these memorials, he would ask the gentleman's pardon. He meant to make no reflections upon that committee.

Mr. DICKERSON replied, that he considered reporting a bill as reporting against the remonstrances.

The protest was then ordered to be printed.

WEDNESDAY, February 11.

*Counting Electoral Votes.*

At twelve o'clock the members of the Senate repaired to the chamber of the House of Representatives, where the votes were counted, and the Vice President made proclamation of the result. [See the proceedings of the House

of Representatives of this day.] After returning to the Senate chamber,

Mr. TAZEWELL said, the joint committee appointed for that purpose had ascertained and reported the result of the election for President, and had directed him to move that a committee of one be appointed to joint a committee on the part of the House, to inform Andrew Jackson that he has this day been elected President of the United States.

Mr. TAZEWELL was then chosen the committee on the part of the Senate.

FRIDAY, February 20.

*The Sinking Fund.*

Mr. SMITH, of Maryland, from the Committee on Finance, to which was referred certain resolutions on the 12th of January last, in relation to the Sinking Fund and the public debt, made a report thereon.

On motion of Mr. SILSBEE, it was ordered that one thousand extra copies be printed.

Mr. McLANE said that, while he had no objection to the printing, he owed to himself to state that, to the conclusion of the report on the first resolution to which it related, he dissented from a majority of the committee. The report in regard to the other resolutions, independent of its reasoning and the grounds on which the conclusions were predicated, had his assent. Without detaining the Senate at this time, he would take the opportunity of explaining his views at large when the report should be called up for the consideration of the Senate.

TUESDAY, February 24.

*Chesapeake and Delaware Canal.*

Mr. HENDRICKS moved that all the orders of the day, previous to bill No. 91, be postponed, and that the Senate take up that bill, entitled "An act to authorize a subscription to the stock of the Chesapeake and Delaware Canal Company."

Mr. BENTON and Mr. HAYNE opposed the motion as calculated to derange the order of business, as an unfair course towards other very important measures, which would be delayed, and as altogether unparliamentary.

Mr. BENTON expressed himself with much warmth in relation to bills which he had reported, and in which he felt an interest, and concluded by calling for the yeas and nays on the motion of Mr. HENDRICKS, which were ordered, and were as follows—yeas 19, nays 18.

So it was decided that the bill "to authorize a subscription to the stock of the Chesapeake and Delaware Canal Company" should have the preference; and that bill was accordingly taken up.

Mr. TAZEWELL stated that he had received, from the Directors of the Dismal Swamp Canal Company, a memorial of a nature similar to the one upon which this bill was founded, and

which he had not presented to the Senate, because he had not anticipated the course which had just been pursued by the Senate, and had therefore concluded that no measure of the kind could pass through both Houses at the present session. It was due to a portion of the citizens he represented to present and press this measure upon the attention of the Senate; he should press it to a certain point, and there he should leave it, because he was opposed to the whole system, from the beginning to the end. He now, therefore, moved a recommitment of this bill, in order that an amendment might be made to it to include a subscription for a certain number of shares of the Dismal Swamp Canal, and the two could go together. It was well known what his opinions were; he should vote against the bill, if the amendment was adopted.

Mr. HENDRICKS hoped the bill would not be recommitted for any such purpose, and he knew no argument so strong against the measure as that, if it was recommitted, it would not be reached again during the present session. He hoped the motion would not be adopted, because the effect would be to destroy both measures.

Mr. TAZEWELL had but one remark to make. It was well known that it was the general opinion, that, during the short session of Congress no business of this kind would be acted upon. When he received the memorial in question, he entertained this opinion, and having no conception that the Senate of the United States would postpone all their orders of the day for the purpose of taking up particular bills, he had not presented it. He now, however, had felt it to be his duty to make the motion to include a subscription for stock to the Dismal Swamp Canal, in the present bill, and the Senate might dispose of it as they pleased.

Mr. NOBLE said, if gentlemen were decidedly opposed to a measure upon constitutional principles, he could not see the propriety of their moving amendments to bills for the purpose of destroying them, saying, at the same time, that they should vote against the bill, even if their amendment prevailed. If the gentleman from Virginia was unwilling to spend the public money for great national objects, why could he not let the people of Delaware and of Pennsylvania, who had no such scruples, enjoy the benefits of the system? For himself, when he was opposed to an object, he placed his vote and his remarks directly in opposition to that object, and did not endeavor to destroy a bill by indirect means.

Mr. TAZEWELL, in reply, repeated, that it was not supposed business of this kind would be acted upon at the short session; accordingly, he had exercised the sound discretion of a Representative of the people, and supposing it impossible to pass the measure, he had not proposed it. The Senator from Delaware, in receiving a memorial from the directors of the Chesapeake and Delaware Canal Company, thought differently; he had presented it, and

FEBRUARY, 1829.]

*Revolutionary Pensioners.*

[SENATE.]

it had been acted upon. He had no other course than the one he had pursued; and when gentlemen accused him of resorting to indirect measures, they most unquestionably did him injustice. He should vote against this bill, and he should vote against all propositions of the kind, whatever quarter they came from. There were certain States that entertained the belief, and they had avowed it, that there was such a thing as State sovereignty; their Representatives in Congress, upon the pledge of gentlemen, had said that they entertained the same belief; and what did it come to? Gentlemen say, if you entertain the opinion that you have no right to this money, give us, who entertain different opinions, all the revenue we can apply to these objects; and, for God's sake, continue in the same opinion, that there may be fewer to divide the spoil. He represented a country which had lived heretofore without the aid of the General Government. The opinions they entertained upon this and some other subjects they had taken up maturely and deliberately; we have always gone together, and we shall always entertain them. We will continue to live without the aid of this Government; we will turn neither to the right hand nor to the left in relation to this subject; and we will neither bend the knee nor doff the cap to obtain aid from this or any other administration.

Mr. McLANE said he did not design to impute to the gentleman from Virginia the use of indirect means for the purpose of killing the bill; he had only stated that such would be the effect of the measure, if adopted; he had only said, if it was recommitment, it was rejected; and if there should be a failure of both measures, who was gratified? Why, the gentleman from Virginia; because, from his motion to amend, the bill was killed entirely. He read from the journal to show, that, when this bill was originally before Congress, the gentleman from Virginia had made a motion similar to that which he had made to-day, which had been rejected.

Mr. WEBSTER said he felt bound to say, he could see nothing exceptionable, or out of the common course, in the measure proposed by the gentleman from Virginia; and, although he should not vote with him, yet it seemed that this method of killing the bill was perfectly natural, perfectly parliamentary, and perfectly fair. Every amendment, whether proposed by those opposed to the bill or not, was worthy of the consideration and respect of the Senate; and there was nothing more conformable to parliamentary usage and practice, than, when a measure was on its passage, for those opposed to it to propose amendments, to make it better and more agreeable to their notions, and finally, to vote against them. It was perfectly natural, parliamentary, and just, for the gentleman from Virginia, holding the opinions he did, to call for the same bounty; for he (Mr. TAZEWELL) considered it bounty, for his constituents, that was given to other people.

He thought the importance of the measure proposed by the gentleman from Virginia such as entitled it to separate consideration, and therefore should vote against including it in this bill. He should act upon this bill as if it had come up in the regular order. The Corporation had applied to the Government for its assistance; their memorial had been received, referred to a committee of the Senate, and a bill introduced; and the proposition was, to suspend this bill, until another public work, in another part of the country, could be included in it. The work was to be considered of equal public importance, but there was no connection between them in the nature of things. There was a general resemblance, but the facts upon which an opinion was to be exercised, might be very different. The inclusion of another subject, which had not been introduced into either branch of the Legislature, did not appear to him a sufficient reason for postponing this bill. It was of high importance that, if passed at all, it should pass at the present session; it was now near the commencement of the working season, and if it was not passed now, the work would be delayed another year. In his judgment, the Government would be able, in a few years, to dispose of their property in that work, and he hoped without much sacrifice, and apply the proceeds to some other work. He hoped they would keep the two measures separate, and dispose of this bill now, upon its own merits.

Mr. TAZEWELL rose to a point of order. He inquired whether, if he offered an amendment with a blank in it, the blank could be filled hereafter?

Being answered in the affirmative, he withdrew his motion to re-commit, and offered the following amendment:

"Sec. 3d. *Be it enacted, &c.* That the Secretary of the Treasury be authorized to subscribe for \_\_\_\_\_ shares in the capital stock of the Dismal Swamp Canal Company: and

"Sec. 4th, authorizing the Secretary of the Treasury to vote for officers of the corporation.

The yeas and nays were taken on the amendment, and were—yeas 18, nays 28.

The bill was ordered to be engrossed for a third reading, by the following vote:

YEAS.—Messrs. Barnard, Barton, Benton, Bouigny, Burnet, Chambers, Chase, Dudley, Eaton, Hendricks, Holmes, Johnson of Kentucky, Johnston of Louisiana, Kane, McKinley, McLane, Marks, Noble, Ridgely, Robbins, Rowan, Ruggles, Seymour, Silsbee, Smith of Maryland, Thomas, Webster, Willey—28.

NAYS.—Messrs. Bell, Berrien, Branch, Chandler, Foot, Hayne, Iredell, Knight, Prince, Sanford, Smith of South Carolina, Tazewell, White, Williams, Woodbury—15.

THURSDAY, February 26.

*Revolutionary Pensioners.*

The bill from the House of Representatives,

"to amend an act, entitled 'An act to provide for certain persons engaged in the land and naval service of the United States, during the Revolutionary war,' and the several acts made in amendment thereof, and for other purposes," was read the first time; and the yeas and nays were called for on ordering it to a second reading.

Mr. CHANDLER stated his reasons for the vote he should give on this question. The session was near its close; the bill was of an important nature, and required due consideration; there was not sufficient time to give it that attention which its importance demanded.

Mr. MARKS thought that a proper courtesy to the other House required the Senate to have the bill read a second time and referred. It was true, there was already much business before the Committee on Pensions; nevertheless, if the bill was referred to them, they would give it a careful examination, though he was fearful it could not be acted upon during the present session.

Mr. NOBLE was of opinion that there would be no want of courtesy to the other House in laying the bill on the table, if there was not sufficient time for the Senate to act upon it. If such was the fact, it might as well be laid upon the table at once, and he therefore made that motion.

The motion prevailed—yeas 26, nays 17.  
So the bill was virtually rejected.

#### *Officers of the Revolution, &c.*

The bill for the relief of sundry Revolutionary and other officers and soldiers, and for other purposes, was taken up, and the amendments of the committee were considered.

Mr. MARKS, in explanation of the bill, said he supposed it was unnecessary to go into a detailed statement in relation to all the cases contained. The sum which would be required, he had ascertained would be about fifteen thousand six hundred dollars; but a great number of the persons named, probably two-thirds of them, might be placed upon the pension roll without the necessity of a separate bill. There were some names upon the list of individuals who did not belong to the regular army of the United States. The reason why they were placed there was, that several States had troops called the troops of the State, which were at times called into the general service, some of whom served three or four years. None of these State troops, however, had been admitted, unless they had served at least nine months under the orders of the Continental officers. There was one question upon which the committee were divided. It would be seen that the pensions all commenced on the first of January, 1828. The committee, not being able to agree, had concluded to leave it for the decision of the Senate.

Mr. SMITH, of South Carolina, said, that he considered the admission of the cases mentioned by the gentleman from Pennsylvania as an in-

novation upon the regular pension system of the United States. The law of 1818 admitted none upon the rolls who were not in the Continental service at the end of the war. It had been an established principle to admit none who were not regular Continental soldiers. He could not see why, at this late day, when the laws provided for all who were in need of assistance, they should be called upon to legislate for particular and individual cases every year.

Mr. MARKS replied, that the committee had been very particular as to the kind of service; and, whenever it had been in the militia service, they had stricken the name off. He introduced a letter from the head of the Pension Bureau, in the War Department, stating what individuals came in for pensions, and under what rules. There were but few in the bill of the State troops, but the committee were satisfied that they had rendered very important services to the United States; and, although they had not heretofore been admitted, yet their claim was such as could not, in equity, be resisted. He was not certain about the number, but he believed not more than eight or ten.

Mr. HAYNE inquired the amount which would probably be called for annually by this bill.

Mr. MARKS replied, that since the adoption of the several names by the Senate, it would probably amount to 15,800 dollars.

Mr. HAYNE said he had moved an adjournment in order that he might look into the bill; but as the Senate had refused him the opportunity, he must state some of the reasons which induced him to oppose the bill. It appeared to him one of the most extraordinary bills which had ever been before Congress. They were asked to grant pensions to a hundred individuals mentioned by name. Was it usual to put names upon the pension roll without any reference to the grounds upon which they were admitted, or others rejected? The Senate knew nothing about these individuals. He believed this very bill had been before the Senate at the last session, and he did not know but the session before, and he well remembered that the Chairman of the Committee on Pensions last year stated that the principles of this bill were new and unknown to the Pension Law. What had been the practice of the Senate? If there was any new principle, he wished to have it placed before them; he wished some report upon it, and he wished to have it placed upon record, why A, B, C, down to Z, and to the end of the chapter, were placed upon the roll, when, as the chairman of the committee said, it was not according to the rule. True, the committee said they had examined the cases, and thought such and such persons ought to have pensions, and that such and such should be exempted from the general operation of the rule. Now, he wished to form his own opinion upon that subject.

Upon an examination of the bill, it appeared, by one section, that a pension was to be given,

FEBRUARY, 1829.]

*Instructions to Panama Ministers.*

[SENATE.]

to the child of an individual who was a soldier in the last war for five years. No reason was given why this child should have a pension, and he could only conclude that all the children of all the soldiers of the last war were to have pensions for five years. By another section, a pension was granted to the widow of a soldier. It was not stated why; and, therefore, all the widows of soldiers will have an equal claim, and all receive pensions. Still, by another section, a pension was granted to the legal representatives of a soldier deceased. Were all representatives and descendants of deceased soldiers to have pensions? There was nothing said about it; there was a law stating certain individuals by name who were to have pensions, and for no apparent reasons, except that they were the children, widows, and representatives of soldiers. There was one case stated of a man who had performed certain services, and who was a lunatic, and his representatives were to have the pension for his use. There he knew something about it; the case was stated.

He begged gentlemen would not understand that this sum was to pay for all the claims under this law. This 15,000 dollars was not to pay all these demands. Gentlemen knew very well what was done to-day was precedent to-morrow, and principle the next day; and, hereafter, whenever an individual wanted a pension, he had only to declare that he had performed services, to put his finger on some name in this bill, call his situation similar, and he could not be refused, and the amount would swell, until neither fifteen thousand nor fifteen millions of dollars would satisfy the demands.

Mr. BAXTON called for an adjournment; which was carried.

SATURDAY, February 28.

*Instructions to Panama Ministers.*

The following resolution, offered last evening by Mr. WEBSTER, was taken up for consideration:

*"Resolved, That the President of the United States be requested to communicate to the Senate, confidentially, and in its Executive character, copies of the instructions given to the Ministers of the United States to the Congress of Panama; and of the communications of the other Governments represented at that Congress, to the Government of the United States; or so much thereof as may be communicated without detriment to the public interest."*

[The words first italicized were inserted during the debate, and those last in italics, or words to that effect, were of course stricken out.]

Mr. TAZEWELL said he should like to hear some reason why, at this late period of the session, this subject, formerly productive of so much excitement and discussion, was again brought forward.

Mr. WEBSTER said it was for the very reason indicated in the remark of the Senator from Virginia, that he had offered the resolution. The subject of the Panama Mission, while it lasted, was highly interesting. It would be very interesting to know the results of that mission, so far as it had any results. His object was simply, as stated in the resolution, to make public all the proceedings of the Executive on this matter, if they could be published without prejudice to the public interest. It was a transaction that had passed by, and become a part of the diplomatic history of the country. He had nothing in view except information, and there would be no expense except that of the publication.

Mr. TAZEWELL replied, that it was of little consequence what the object was; the course pursued was incorrect. Here was a President who had only three days to serve, and the Senate were required to make a call upon him for important public documents, relating to the foreign intercourse of the country, and which had never been published. He thought it better to wait a few days, and then make the call upon the then Executive. These instructions might contain matter which it was improper to have go before the public: they related to the policy of the country, which it would not, perhaps, be prudent to expose to the eyes of other nations. He objected to the call being made at this time, because, if important secrets should be brought to light, the responsibility of the course would not light upon the present Executive, and might embarrass the next. He objected to the manner in which the resolution was expressed. It was left to the judgment of the President to say how much of the instructions should be made public, after all the responsibility had been removed from him, and he could publish just as much or just as little as he pleased. He thought it more proper for the next administration to make the selection, when they could bear the responsibility of their own acts. He considered it incorrect, and dangerous.

Mr. WEBSTER said he saw no good reason why the motion should not be made now, as well as three days hence. The Senator from Virginia seemed to go upon the ground that the same discretion would not be exercised by the present Executive, as would be exercised, three days hence, by the next. This he did not believe: for the Executive was as much bound to answer the call of the Senate for information at the present time as at any other, and to exercise its discretion. The object was, as he had stated, simply that the Executive might have an opportunity to publish these instructions, as a vindication of its own conduct, in a measure upon which its policy had not only been doubted, but its motives had been very much censured, and very much assailed. The injunction of secrecy having been removed from the proceedings of the Senate, the views of the Senators who opposed it, and the messages

of the Executive upon the subject, had long since been made public. Now, he wished the instructions given to the Ministers should be revealed, and then the whole facts would be placed before the people, for them to judge. He could see no objection to this. The resolution, as a means of getting the information, was a common course, it was proposed in the common manner, and it seemed to be but an act of common justice, that the administration should be allowed the opportunity of setting themselves right in the estimation of the public. He called for the yeas and nays upon the adoption of the resolution.

Mr. HAYNE objected to the resolution on account of its terms, and also because it properly belonged to the Executive business of the Senate, and ought to be submitted to the Senate when acting in its Executive capacity. The resolution did not call for all the information connected with the subject, but only for so much as, in the opinion of the President, might be communicated without injury to the public service. It was true that this was a discretion necessary to be exerted by the President in all cases where a public call was made for documents connected with the diplomatic relations of the country, but this only demonstrates the necessity of making the call under circumstances which will entitle the Senate to receive all the information connected with the subject, thus enabling us to determine, according to our discretion, whether the whole may not be made public without detriment to the interests of the country. He would not be satisfied, in this case, with being told that it was not to be presumed, that in making this communication to Congress, the President would not exercise his discretion discreetly, prudently, and honestly. It was sufficient that, as the resolution now stood, the public might be presented with an imperfect and partial view of the subject. It may be that a portion of the instructions and communications cannot be prudently published; and it may also happen that the suppression of these parts may present an imperfect or a garbled view of the subject, one calculated to make a false impression on the public mind. In matters of opinion, man, with the best intentions and entirely free from party feelings, may be led into errors. The President may think on this subject very differently from the Senate. He may deem communications unimportant which the Senate may suppose to be very material, or he may believe that matters cannot be safely disclosed, which we may consider altogether harmless, and, perhaps, indispensable to the clear understanding of the whole subject. What is the result of our own experience in the very case before us? When the Panama Mission was first brought before the Senate, the President communicated certain documents and information, which he considered all that was necessary to give a full view of the character and objects of the mission. Now it so happened, that that portion of the

Senate with which it was his pride to have acted on that occasion, did believe that very material information was withheld—information which was drawn out by the calls subsequently made on the Executive, and which, in his opinion, entirely changed the aspect of the affair. The truth is, that the Panama Mission, as presented to the Senate by the first Message of the President, was a measure of a very different character from that which was, at a later period, presented to this House, and which differed still more from the same measure when it got into the House of Representatives. And who could tell what may be its character as disclosed by the communications which may now be made in answer to this call. The object of every gentleman ought to be to disclose the whole truth. He, therefore, protested against any call on the Executive which should fall short of a full disclosure of every fact, and a communication of every document connected with the subject. When these should be communicated, the Senate would be able to form an opinion whether the whole could be made public without injury to the public service, and if not, whether the publication of any part could take place, without conveying an erroneous impression of the facts. He had no objection to the publication of every thing connected with the Panama Mission, feeling, as he did, the perfect assurance that the more the subject was discussed and examined, the more clearly it would appear that it was a wild, visionary, or dangerous project. But it was obvious that the resolution now before the Senate, restricted as it is, puts every thing in the power of the President, and leaves it to his discretion to bring the subject before the world in any way he may think proper. To this, from the experience of the Senate on this subject, he for one was not willing to give his assent. For the purpose, therefore, of enabling the Senator from Massachusetts to bring this motion before the Senate when acting in its Executive character, thereby to enable us to receive all the documents connected with the subject, in order that we may exercise our own discretion in making the whole or any part of it public, he would now move to lay the resolution on the table.

This motion was withdrawn at the request of Mr. WEBSTER. He said it was unnecessary to repeat the object he had in view in introducing this resolution; he had already stated his motives, and he had not anticipated the least objection to its passage. While the subject of the Panama Mission was before Congress, great alarm had been spread through the country in relation to it. Great fears were either felt or feigned, both in and out of Congress, that the objects of the Executive were not correct, that the measure was unconstitutional, and the ministers appointed might compromise the honor of the country. He wished to ascertain how far those fears were justified; he cared not in what form the information was obtained; this was a common and a convenient one. Gentlemen

FEBRUARY, 1829.]

*Instructions to Panama Ministers.*

[SENATE.]

who had expressed their views and apprehensions, would not, surely, now that their fears had gone forth to the world under the sanction of their own names, now that the measure had produced all the effects it could produce upon the public, prevent those who thought differently from giving their views. While their fears in relation to these instructions had been published, gentlemen could not in justice keep the facts, the real instructions, locked up. He cared not for the time when the call was made; he hoped it would be made as soon as might be, and if gentlemen objected to the manner of the call, he was willing to meet all their views, if it was possible; he was willing the instructions should be required confidentially, and that the whole should be required: he, therefore, moved a modification of the resolution, by inserting "confidentially," and striking out the last clause.

Mr. HAYNE said he preferred proceeding in the usual course. It was altogether an Executive matter, and should be made and received in their Executive character.

Mr. WEBSTER was willing to, and did, modify the resolution still farther, by the insertion of the words "in its Executive character."

Mr. HAYNE said he would still prefer the ordinary course.

Mr. BENTON said he could conceive of no difficulty which would arise from the form of the call. The documents would be marked confidential, and would be opened in secret session.

Mr. TAKEWELL remarked, that the original defect of the resolution could not be removed. He cared not in what form, or when it was moved; he would oppose it. The reason for the call was avowed to be to give the Executive an opportunity to publish its views on a matter which has been discussed and was at an end. If the President wishes to make his views public, let him do it. If he wishes to publish the documents, let him do it. It would be necessary for us to pass this resolution, if we wish to force from him documents which would inculcate him, and which he chose to keep back; but it is unnecessary for us to pass a resolution for the purpose of enabling him to publish documents which he might wish to publish. The object is, to ease the President by the interposition of this body. The President having but two or three days of office, will feel but little responsibility for the effect of the publication; but shall we assist him to do it, who have six years of responsibility? But, if all this be done, what is to be the result? Are you to take up this business again, and follow it through all the mutations of the Executive will? Are the "fears, felt or feigned," by those who opposed the Panama Mission, to be pronounced unfounded, because they are not justified by the instructions given after those "fears, felt or feigned," were expressed? Are those instructions to be given to the public now, to expound what occurred six months before the instruc-

tions were written? I cannot speak intelligibly to the gentleman from Massachusetts. He was not in this body at the time alluded to. But my brethren, said Mr. T., on my right and left, saw the monstrous project as it was first brought before us.

Mr. WEBSTER said, that nothing was farther from his expectation, than that a resolution calling for information, a motion so constitutional, so conformable to the practice of both Houses, and often so necessary, should have met with opposition, or produced debate. He wished for no contention; he courted no controversy. He had no desire to create new, or to revive old topics of dispute. It had not occurred to him that any such consequence would naturally follow from this resolution; and it would not escape observation, that, after the modification of it had taken place, he had been asked to withdraw the call for the yeas and nays, upon the supposition, doubtless, that no opposition was intended. But the affair, it seems, had taken another turn. But, whatever course the discussion should take, he should not imitate the example of wandering into extraneous and irrelevant matter. Still less should he attack individuals, or allude to occurrences no way connected with this subject, for the purpose of making personal observations or inflicting pain. He intended, on this and other occasions, to discharge his public duties with decorum towards all public men, and with abstinence from asperity and personal vituperation and reproach. As to the resolution itself, common justice required its adoption. The resolution, as originally framed, requested that the instructions to our Ministers at Panama should be communicated to us, so far as the public service would properly allow them to be made public. This was the usual course. It was customary *in re*, and in relation to all negotiations, either pending or closed. How long was it since a member from Maine had made a similar call for the correspondence of our commissioners under the treaty of Ghent? This call had been made for the purpose of publishing that correspondence, although it related to a question of great importance still pending; nevertheless, it was readily acceded to, or, according to usage, it was limited by reference to the discretion of the President.

Mr. BENTON would vote differently on this occasion from what he would if the present administration were to continue in power. If they were to continue, he would struggle to the uttermost to have *all* the instructions communicated confidentially to the Senate; those who had opposed the mission to Panama might also have an opportunity of endeavoring to get all they conceived material before the public. But this administration was not to continue. It went out of power in three days, and could gain nothing by making an imperfect communication: for the new administration would immediately have it in its power to show any thing that might be left behind. If it should



turn out to be the fact, that the President had dropped, or modified, when he came to give his instructions, any of the objects originally communicated to the Senate, it would be a high compliment to the nineteen Senators who opposed the mission, and, for that reason, were so often denounced for a factious and unprincipled opposition. To authorize the publication (if the authority was necessary) seemed to be an act of courtesy, perhaps of justice, to a retiring administration; if a partial publication was made, it would be corrected in a few days, and no advantage would be gained to one side, or injury done to the other, where the correction would be so prompt.

Mr. McKINLEY said, the proposition seemed to him to be perfectly fair. But he was not here when the subject was discussed by the Senate, and could not, therefore, be aware of the difficulty said to exist in the consideration of the proposition with open doors. It seemed to him that the proposition had better be made in secret session, and he would move that the resolution be laid on the table.

The motion to lay the resolution on the table was decided in the affirmative—yeas 28, nays 22.

#### MONDAY, March 2.

##### *Inauguration of the President Elect.*

Mr. SMITH, of Maryland, said he had been anxious to move a resolution, which he read.

The Chair stated that he had received a letter from the President elect on the subject to which the gentleman had referred.

The following communication from the President elect was read:

CITY OF WASHINGTON, March 2d, 1829.

SIR: Through you I beg leave to inform the Senate, that, on Wednesday, the 4th instant, at 12 o'clock, I shall be ready to take the oath prescribed by the constitution, previously to entering on a discharge of my official duties, and at such place as the Senate may think proper to designate.

I am, very respectfully, sir, &c.

ANDREW JACKSON.

J. C. CALHOUN,

*Vice President of the United States.*

Mr. SMITH offered his resolution, as follows:

*Resolved*, That there be a committee appointed to make the necessary preparations and arrangements for the inauguration of the President elect, on the 4th of March, 1829, and to apprise him of the same.

The resolution was adopted, and a committee of three members ordered, consisting of Messrs. SMITH, of Maryland, WHITE, and CHANDLER.

#### TUESDAY, March 3

##### *Documents—Panama Mission.*

The following Message was received from the President of the United States:

*To the Senate and House of Representatives of the United States of America.*

WASHINGTON, 3d March, 1829.

I transmit herewith to Congress, a copy of the instructions prepared by the Secretary of State, and furnished to the Ministers of the United States appointed to attend at the Assembly of American Plenipotentiaries, first held at Panama, and thence transferred to Tacubaya. The occasion for which they were given has passed away, and there is no present probability of the renewal of those negotiations; but the purpose for which they were intended are still of the deepest interest to our country and to the world, and may hereafter call again for the active energies of the Government of the United States. The motive for withholding them from general publication having ceased, justice to the Government from which they emanated, and to the people for whose benefit it was instituted, requires that they should be made known. With this view, and from the consideration that the subjects embraced by those instructions must probably engage hereafter the consideration of our successors, I deem it proper to make this communication to both Houses of Congress. One copy only of the instructions being prepared, I send it to the Senate, requesting that it may be transmitted also to the House of Representatives.

JOHN QUINCY ADAMS.

Mr. TAZEWELL moved the reference of the Message and papers to the Committee on Foreign Relations.

The reference was ordered.

Mr. CHAMBERS moved that the Message and documents be printed.

Mr. TAZEWELL, in opposition to the motion, asked if the Senate was willing to give to the world, without previous examination, the secret instructions of the Government. This proposition was made here a few days ago by a Senator from Massachusetts, in a resolution. It was suggested by the Senator from South Carolina, that the documents should come to the Senate confidentially, and in secret session. The mover himself became satisfied of the impropriety of receiving them in any other way than with closed doors, and he modified his resolution accordingly. What then? The Senate determined not to make a call for documents on a President having but three days to live, and the resolution was laid on the table. Although the mover declared that he had no knowledge of the President's intentions or wishes in regard to the publication of these papers, yet, the resolution having been rejected, the President, uncalled, obtrudes the secret documents on the Senate. After these documents had been referred to a committee, to be examined and to be published or withheld, at their discretion, the Senator from Maryland, though he knows nothing of their contents, proposes to publish them to the world. Mr. T. hoped that the Senate would examine before they promulgated documents sent hither in the last moment of the expiring political life of the President.

Mr. CHAMBERS said he was greatly surprised

MARCH, 1829.]

Documents—Panama Mission.

[SENATE.]

at the opposition made to the motion to print. He regretted the absence from his chair of his friend from Massachusetts,\* (Mr. W.), who had introduced the resolution referred to by the Senator from Virginia, because he did not understand the motives or the objects of that resolution to have been those which that Senator now expressed them to be. He had not understood the mover of the resolution to intimate, and certainly in the remarks which he himself had made in support of that resolution, he had not intimated, his motive and object to be to purify the present Executive, or to rekindle the flames of party animosity. When that resolution was introduced, it was objected by the Senator from South Carolina, (Mr. HAYNE,) that the information asked for should be sent to the Senate in secret session, in Executive session, and other exceptions were taken to its language. The mover of the resolution acquiesced in all the suggestions of amendment, and modified his proposition accordingly. It was for the avowed purpose of conciliating the views, and subduing opposition, that the modifications were adopted, and not as the Senator from Virginia suggests, because the mover of the resolution deemed it proper to have the Senate in Executive session to receive the communication. He had admired, although he believed he could not have imitated, the conciliatory temper of his honorable friend who had moved the resolution, in yielding to the modifications proposed, when he was yet convinced that, in its original form, the proposition ought not to have received opposition. Yet what was the event? A strong and animated appeal was made by the Senators from Virginia, South Carolina, and Georgia, and ultimately the resolution was defeated by a vote to lay it on the table.

It has been said the President has obtruded papers on the Senate containing secrets of the Government. What justifies this remark? Does the Senator know the contents of the papers, and from such knowledge assert their character? Does he not assume an appellate power over the opinion of the Executive? Does he not refuse to the President the exercise of concurrent and co-ordinate power vested by the constitution? The Executive has the right to make public his official acts. By sending his communications to Congress, he does publish to them and to the world, and this body has no right to lay hands on official papers in transitu, and smother them by sending them to a committee room, and refusing to print them.

Mr. BERRIEN had no wish, he said, to inquire into the motives of the President, or of individuals, in regard to this subject; but this last motion forcibly reminds us of the circumstances under which the original motion was introduced. The question upon the resolution

was not whether the documents should be published, but whether we should, gratuitously, evoke them from the President, and give them publicity. The same argument which he opposed to the call for the papers, he would now oppose to the motion to print them. He would exclude all consideration of the motives of these motions, but look at their effects. The effect of both motions was to draw distinctly the lines of parties. Gentlemen avail themselves of the very few moments in which they can have access to the public armory, to arm themselves for another contest. He did not fear their weapons. They had been found powerless for defence; they would be found equally so for offence. The object of the motion made the other day was declared to be not the justification of the President, though that, it was said, would be its effect, but to justify to gentlemen their own course. The real object which gentlemen had in reviving the discussion of the merits of this contemned and exploded political speculation was to enable them, in their retirement, or in legislative halls, to renew the political conflict in which they had so lately been defeated. But this weapon would not aid them, sir, (said Mr. B.,) it is not for me to distrust the declarations of gentlemen. I am not disposed, on this occasion, to urge the argument of "*post hoc ergo propter hoc*," but how soon had these several acts, tending to the same object, followed each other. In the earliest possible moment after the rejection of the original proposition, this message was received, and it was immediately followed by a motion of an extraordinary character. The President, in the exercise of a power not denied to him, has sent to us the documents in such haste, that the clerks could not furnish a copy of them. But one set was furnished, which we were required to send to the House of Representatives. Is this usual? The President should have put both Houses in possession of the document, and he cannot make us his agents in their communication to the other House. But is there any thing unusual in resisting the proposition to print the papers? Only one copy was sent, and that was referred to the Committee on Foreign Relations. Was there any proof that we were disposed to withhold the documents from publication? Why were they not printed? Because they should first be examined by the committee, and should go to the public accompanied by a report from the committee. The bane and the antidote should be administered together. But he would ask if the President would not lay these documents before the public. It was in his power to do whatever he wished with them; nor would it be a new case, should he open the secret drawers of the State Department to make public such of their contents as he thought proper.

The instructions to Mr. Cook were given to the public by the President after they had been refused to the House of Representatives. With

\* Messrs. Webster, Johnston, of Louisiana, and Silsbee, were absent attending the funeral of Mrs. Barnard, as pall bearers, and did not return until at the moment of taking the final vote.

my assent, no act of ours shall sanction the publication of these papers. They were in a condition to get before the public without our agency. He would not consent to be made the agent in drawing from the Department of State, and in publishing, the history of an ill-fated measure, which had long distracted the American people, and which was only called for with a view to revive and continue those distractions.

Mr. HOLMES said he had been opposed to the Panama mission; for he suspected it would come to no good, and he had feared it might produce mischief. His maxims were "to let well enough alone," and "if you could not see where to go, nor what to do, it was safest to stand still, and do nothing." But others thought well of it; public opinion was divided, and, the mission being established, and the Ministers appointed, I (said Mr. H.) could not withhold the appropriation for their compensation. The President has communicated to us the instructions to those Ministers, and the proposition is to print the documents for the use of the Senate, confidentially. The whole affair is over and finished, and we not only refuse the public the information, but we are afraid to trust ourselves.

Sir, it is a grave question, whether we have the power to arrest here a communication sent to the House of Representatives through us. The President has sent information to both Houses, requesting us to transmit it to the House. It is a usual course, and when the documents are voluminous, it is almost always done. It has been admitted that the President has, himself, the right to make public the whole transaction; and yet we are so fastidious that we apprehend danger even to trust ourselves with reading the communication. They are to be looked up in the bureau of the Committee of Foreign Relations; and until these confidential gentlemen have examined them, we are not to have a sight of them. The result is, that we are to interpose to shut out from the public that information which the President himself, on his own responsibility, has a right to give. Sir, I opposed the mission, and still believe I was right; but instead of refusing, I will facilitate every thing which may go to show me in the wrong. I am not afraid nor ashamed to hear and publish any man's doctrines in opposition to my own. It is, moreover, made the duty of the President, by the constitution, to make this communication. "He shall from time to time," that is, when, on his own responsibility, he deems it expedient, "communicate to Congress the state of the Union." A transaction affecting essentially the state of the Union is communicated, and we, the Senate, even with closed doors, are neither permitted to hear or see it. Is it material that the committee shall detain these documents, that their answer shall go out simultaneously? Public opinion is not to be forestalled: for the people of these United States

will hear the whole before they decide. But if we are, indeed, afraid to trust them, it is a little singular that we should be afraid to trust ourselves.

Mr. HAYNE rose in reply to Mr. CHAMBERS and Mr. HOLMES, and said that, if the President desired to give to the world his instructions to the Ministers to the Congress of Panama, on his own responsibility, he, as a member of the Senate, could have no objection to his doing so, be the President influenced by what motives he may. But, when the attempt was made to convert this House into the mere instrument for the accomplishment of such a purpose, he felt disposed to pause and inquire into the object intended to be accomplished by the proceeding. If the President desired to shift the responsibility of laying before the world, documents which, by the practice of all Governments, are usually locked up in the archives of the country, it was at least necessary that the Senate should know precisely the character of the papers which they were called upon to print, in order that they might judge how far it was proper for them to assume the responsibility thus attempted to be thrown upon them. The usual and proper mode of proceeding was, to do, what had been done in this case—to refer the Message and documents to the Committee on Foreign Relations for examination; and if, after they shall have been examined, it should appear that they contain nothing which can compromise the character, or affect the future policy of this country, he, for one, would have no objection to print, and circulate them as widely as the President or his friends could desire. Those Senators who had opposed the Panama mission from the beginning, could have no possible objection to the publication of every thing calculated to afford correct information concerning that wild and visionary project. But at the same time, it is due (said Mr. H.) to ourselves and to the country, that we should clearly understand the true character of these documents, before we take upon ourselves the task of ushering them before the world on our responsibility. The President might have caused them to be printed and circulated without sending them here; but, as he is determined to send them out under the authority of the Senate, it is proper that we should resort to the usual means for obtaining authentic information as to the true character of the documents, in order to determine the course proper to be pursued in relation to them.

Having referred the Message, therefore, to the Committee on Foreign Relations, to whom the subject appropriately belonged, it would be entirely out of the usual course, and as it appears to me, highly improper to order them to be printed, or to adopt any other measure in relation to them, until we should have the result of the examination to which they would be subjected by that committee.

Mr. CHAMBERS said he was unable to discover

MARCH, 1829.]

*Documents—Panama Mission.*

[SENATE.]

the force of the objection urged by the Senator from South Carolina. A pervading error ran through his whole argument. The Senator assumes the contents of the papers to be such as to render their publication improper. The obvious answer to this was that the constitution had made the President the judge of that matter: it gave to him the power to divulge to Congress, and to the public, what, on his responsibility, he might think it safe and proper to communicate. It did not give to the Senate an appellate power over his judgment. The Senate was no more the constitutional guardian of the President than of the House of Representatives. But this doctrine, practically carried out, would make it the guardian of both. When the President sends a message to the House, we are first to examine whether it is discreet in him to send it; and this kindly office being performed to him, we are then to ascertain whether it is discreet to *allow* the House to receive his Message. Sir, if such powers be assumed by the Senate, who is to assign limit to them? What becomes of the co-ordinate branches of your Government? What becomes of the constitution? The Senate will be your Government, and all other departments its *dependents*.

These documents do not belong to you alone. They are equally the property of the other House; and they are now made public; and, therefore, their contents are the property of the public. Has not any member, at this instant, the right to go to your file, transcribe any part, or the whole of their contents, and publish them in the newspaper, without violating any rule of the Senate, any rule of law, or any rule of propriety? Certainly he has. It was altogether unimportant what were the contents of the papers. They were already public, and on the responsibility of the President. The instrumentality of the Senate was not asked or required, and it was only the exercise of some power by the Senate which could now withhold their contents from the House of Representatives and the nation. He denied the existence of such a power in the Senate. Whence did they derive it? Or why should they possess it? The Senate is not responsible, if the President has acted indiscreetly, as the argument assumes, although the Senator admits he does not know the contents of the papers, and, of course, cannot know that their publication will do mischief.

Unless the Senate be prepared to assume the functions and responsibility which the constitution has vested in the Executive, and, indeed, those which belong to the House of Representatives also, it cannot arrest what is sent by the one to the other in the course of official duty. It is not only a direct violation of the right of the Executive to send, and of the House to receive, those papers, but it is a palpable infraction of the right of the people to know what occurs in the progress of Congressional proceedings. Was it ever heard of be-

fore, that, in relation to facts disclosed with all the forms of a public proceeding in an open session of Congress, either this or any other branch of the Government had interposed to lay its hands on the materials by which those facts were to be acquired, and shut them up in a committee room? and this, too, for the avowed purpose of concealing their existence?

How, he asked, does this course compare with that of the Senate when the Panama mission was advised? The majority of that day did not hesitate to give to the people all the facts before them. No one resisted it. The mission had been determined on, and whether the documents were published or no, the Ministers would be sent out. But the question had excited public interest, and the nation had a just claim to all the information which would enable them to judge whether the policy was wise. Did we meet the demand to publish, by asking if gentlemen intended to perpetuate acrimonious feelings? By adverting to the danger of exposing our notions of the course of policy to be pursued to these nations? By suggesting the necessity of employing the agency of a committee to send out an "antidote with the bane?" As if we feared to trust the honesty or the intelligence of the American public. No, sir, all the documents we had were published, and thousands of copies dispersed over the whole surface of this Union; and all the labored arguments of our opponents accompanied them. Now we ask the same justice, and our case is a much stronger one. What we have published is a *part* only, and we ask to publish the remaining part, which is necessary to a right understanding of the whole. What is published was the groundwork against which was levelled all the predictions of excited apprehension. Now we ask you not to conceal from the public eye the finished and completed superstructure.

The motion to print the Message and documents was lost:

YEAH.—Messrs. Barton, Boulogny, Burnet, Chambers, Chase, Foot, Hendricks, Holmes, Johnston of Louisiana, Knight, Marks, Noble, Robbins, Sanford, Seymour, Silsbee, Webster, Willey—18.

NAY.—Messrs. Barnard, Benton, Berrien, Branch, Chandler, Dickerson, Dudley, Eaton, Hayne, Iredell, Johnson of Kentucky, Kane, King, McKinley, Prince, Ridgely, Rowan, Smith of Maryland, Smith of South Carolina, Tazewell, Tyler, White, Williams, Woodbury—24.

Mr. TAZEVELL asked whether a motion to transfer the Message and documents from the Legislative to the Executive Journal would be in order.

The Vice President said he presumed it would be in order. There were no instances of transfers from the Legislative to the Executive Journal; but transfers from the Executive to the Legislative Journal were not unfrequent. The motion was made, and carried in the affirmative, by a vote of 25 to 16.

*Adjournment.*

During the above discussion, a message was received from the House of Representatives, stating that they had passed a resolution for the appointment of a Joint Committee to wait on the President of the United States, and inform him that unless he had any further business to communicate, the two Houses were ready to adjourn, and asking the concurrence of the Senate.

The Senate concurred, and appointed a committee on its part; and Mr. SMITH, of Maryland, from the committee, reported that they had discharged the duty intrusted to them, and

that the President informed them he had nothing further to communicate; that he presented his best respects to both Houses of Congress, and wished them a safe return to their families and homes.

Another message was received from the House, stating that they had completed the legislative business before them, and were ready to adjourn.

On motion of Mr. SMITH, of Maryland, it was ordered that the Senate meet to-morrow at 11 o'clock A. M.

The Vice President then adjourned the Senate.

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## PROCEEDINGS AT EXTRA SESSION.

THURSDAY, March 5.

*Documents—Panama Mission.*

The following Message from the President of the United States, received and considered the third instant, in legislative session, was, at that time, on motion of Mr. TAZEVELL, ordered to be transferred, with the accompanying documents, to the Executive Journal:

*To the Senate and House of Representatives of the United States of America.*

WASHINGTON, 3d March, 1829.

I transmit herewith to Congress a copy of the instructions prepared by the Secretary of State, and furnished to the Ministers of the United States appointed to attend to the Assembly of American Plenipotentiaries, first held at Panama, and thence transferred to Tacubaya. The occasion for which they were given has passed away, and there is no present probability of the renewal of those negotiations; but the purposes for which they were intended are still of the deepest interest to our country, and to the world, and may hereafter call again for the active energies of the Government of the United States. The motive for withholding them from general publication having ceased, justice to the Government from which they emanated, and to the people for whose benefit it was instituted, requires that they should be made known. With this view, and from the consideration that the subjects embraced by those instructions must probably engage hereafter the consideration of our successors, I deem it proper to make this communication to both Houses of Congress. One copy only of the instructions being prepared, I send it to the Senate, requesting that it may be transmitted also to the House of Representatives.

JOHN QUINCY ADAMS.

TUESDAY, March 10.

Mr. BENTON submitted the following motion:

*Ordered,* That the message of the President of the United States, transmitting to the Senate the instructions to the Minister of the United States to the Congress at Panama, with the accompanying documents, be referred to the committee appointed the 5th instant.

The Senate proceeded to consider the motion.

THURSDAY, March 12.

The Senate resumed the consideration of the motion made on the 10th instant, to refer the Message transmitting the instructions to the Ministers of the United States at Panama, to a Select Committee.

Mr. BENTON had leave to withdraw the motion, and submitted the following as a substitute:

"The late President of the United States having, by his message of the 3d March, 1829, communicated a copy of the instructions to the Ministers of the United States appointed to attend at the Assembly of American Plenipotentiaries, first held at Panama, and thence transferred to Tacubaya, with 'a view to their general publication,' which is claimed by him as an act of 'justice to the Government from which they emanated:' Therefore,

*Resolved,* That the injunction of secrecy be removed from the said documents, so far as to permit the publication of the same, as containing the views of the late Executive of the United States; it being thereby declared that such publication is not to be considered as the expression of an opinion on the part of the Senate, in relation to any of the principles avowed, or measures suggested in said instructions."

The Senate proceeded to consider the motion.

FRIDAY, March 13.

The Senate resumed the consideration of the motion submitted yesterday by Mr. BENTON,

MARCH, 1829.]

Proceedings at Extra Session.

[SENATE.]

relative to the instructions to the Ministers of the United States at Panama.

On motion of Mr. SMITH, of South Carolina, that it lie on the table, it was determined in the negative—yeas 6, nays 80.

#### MONDAY, March 16.

The Senate resumed the consideration of the motion submitted by Mr. BENTON on the 12th instant, respecting the instructions to the Ministers of the United States at the Congress of Panama.

A motion was made by Mr. WEBSTER, to amend the same, by *striking out* all after the word "Resolved," and inserting, "That the Message of the President of the United States, of the 3d of March last, transmitting the instructions given to the Ministers of the United States, at the Congress of Panama, and the documents accompanying it, be transferred to the Legislative Journal of the Senate."

A division of the question was called for by Mr. KING, and being taken on striking out, It was determined in the negative—yeas 18, nays 19.

On motion of Mr. TAZEWELL,

To amend the resolution by striking out all after the word "emanated," and inserting the following :

"The Senate having bestowed upon the said instructions the most careful attention ; and not being able to discover any possible benefit which may result from their publication at this time ; on the contrary, finding in them many expressions, insinuations, and opinions, in the justice and propriety of which the Senate do not concur, but regard the promulgation of the same as a measure which may be productive of much public detriment : Therefore,

*Resolved*, That the said instructions be returned to the Department of State."

It was determined in the negative—yeas 9, nays 28.

On motion of Mr. McLANE, of Delaware, to amend the resolution, by striking out all after the words "*Resolved*, That," and inserting, "the said Message, and the documents accompanying it, as containing the views of the late Executive, be transferred to the Legislative Journal of the Senate ; it being hereby declared that such transfer is not to be considered either expressive of an opinion, on the part of the Senate, of the propriety of the said Message, or of the language used, the principle avowed, or the measures suggested, in said instructions :"

VOL. X.—17

A division of the question was called for, and, being taken on striking out, it was determined in the affirmative.

A motion was made by Mr. RUGGLES, to amend the amendment proposed to be inserted, by striking out the following clause : "It being hereby declared that such transfer is not to be considered as the expression of an opinion, on the part of the Senate, of the propriety of the said Message, or of the language used, the principles avowed, or measures suggested in said instructions."

And it was determined in the negative—yeas 18, nays 19.

A motion was made by Mr. WEBSTER, to amend the proposed amendment, by inserting, after the word "propriety," the words "or impropriety."

And it was determined in the affirmative—yeas 21, nays 11.

The amendment, thus amended, was then agreed to.

On the question to agree to the original motion as amended, it was determined in the affirmative—yeas 22, nays 10.

So the resolution was agreed to as follows :

"The late President of the United States having, by his message of the 3d March, 1829, communicated to the Senate a copy of the instructions to the Ministers of the United States appointed to attend at the Assembly of American Plenipotentiaries, first held at Panama, and thence transferred to Tacubaya, with a 'view to their general publication,' which is claimed by him as an act of 'justice to the Government from which they emanated : ' Therefore,

*Resolved*, That the said message, and documents accompanying it, as containing the views of the late Executive, be transferred to the Legislative Journal of the Senate ; it being hereby declared, that such transfer is not to be considered as the expression of an opinion, on the part of the Senate, of the propriety or impropriety of the said message, or of the language used, the principles avowed, or measures suggested, in said instructions."

On motion of Mr. TAZEWELL,

*Ordered*, That the proceedings of the Senate, on the subject of the message, transmitting the instructions to the Ministers of the United States at the Congress of Panama, be transferred to the legislative journal.

On motion of Mr. SEYMOUR, that this Message be printed,

It was determined in the negative—yeas 18, nays 18.

## TWENTIETH CONGRESS.—SECOND SESSION.

### PROCEEDINGS AND DEBATES

IN

### THE HOUSE OF REPRESENTATIVES.

MONDAY, December 1, 1828.

The House was called to order at 12 o'clock, by the Hon. ANDREW STEVENSON, the Speaker of the House. The roll being called over, one hundred and seventy members and three delegates answered to their names.

The usual messages were interchanged between the two Houses, and a committee was appointed to wait upon the President of the United States.

TUESDAY, December 2.

Mr. VAN RENSSELAER, from the committee appointed to wait upon the President of the United States, and inform him that the two Houses were in session, &c., reported that they had performed that duty, and the President replied he would make a communication to both Houses this day at 12 o'clock.

Soon after which, a Message, with accompanying documents, was received from the President, by the hands of Mr. John Adams, his private secretary, (for which, see the Senate's Debates.)

The reading of the President's Message being concluded, it was,

On motion of Mr. TAYLOR, ordered to be committed to the Committee of the whole House on the state of the Union, and six thousand copies of the same, with the accompanying documents, ordered to be printed for the use of the members of the House.

THURSDAY, December 4.

*The late Hedge Thompson.*

Mr. TUCKER, of New Jersey, addressed the House as follows:

Mr. Speaker: I rise to announce the unpleasant information of the death of one of my colleagues, Mr. HEDGE THOMPSON. Though not

long a member of this House, those who had the pleasure of his acquaintance while here will bear me out in saying, that the worth of the deceased was of no common order. All who had the happiness of knowing him as well as did the humble individual upon whom has devolved the melancholy duty of addressing you on this occasion, will bear me testimony that his character combined an association of the most estimable qualities of the human heart; he had been afflicted by a distressing and protracted disease of the liver, which terminated his journey of life, when he paid the great debt of nature, at his residence in New Jersey, on or about the 20th of August last. That the usual solemnity in this, as in similar cases, may prevail, I move you, sir, the following resolution:

*Resolved*, That as a testimony of respect for the memory of HEDGE THOMPSON, deceased, late a member of this House for the State of New Jersey, the members thereof will go into mourning by wearing crape on the left arm for thirty days.

The resolution was unanimously agreed to

*Cumberland Road.*

Mr. SMITH, of Indiana, moved the following resolution:

*Resolved*, That the Committee on Roads and Canals be instructed to inquire into the expediency of reporting a bill to authorize the opening of the Cumberland road eighty feet wide on its present location through the State of Indiana, by cutting off the timber, removing all obstructions, and making temporary bridges, so as to let on the travel, preparatory to turnpiking the same; and also, that said committee inquire into the expediency of making an appropriation of fifty thousand dollars for that purpose.

Mr. SMITH said, that he must ask the indulgence of the House, and the ear of the Committee on Roads and Canals, while he remarked

DECEMBER, 1828.]

*Extension of Time for Drawback.*

[H. OF R.]

briefly on the objects of the resolution. There are few subjects, said Mr. S., I may say none, in which the citizens of the State from which I come, and particularly those more immediately affected by this road, either in fact or anticipation, are more deeply interested than in that embraced by this resolution. The Cumberland road being the grand thoroughfare through which a great portion of the emigration, as well as the merchandise from the Atlantic States, and cities, must pass, by land, to the State of Indiana, and those States west, through which this road is intended to be located, it consequently becomes a matter of much importance to our citizens, that it should be in healthy and active progress westward. It must be recollected by the House, and particularly by the committee, that Mr. Knight, the able commissioner who ran and marked the road through the State of Indiana, in his report to Congress, at the last session, warmly recommends the opening of this road in the manner contemplated by the resolution. It would seem almost unnecessary for me to add my entire concurrence in the views of Mr. Knight on the subject, as his opportunities, having examined the ground, for acquiring a knowledge of the subject, not only as regards the geography of the country, but as to the propriety of this preparatory step, has been such, as to entitle his opinions to the respectful consideration of this House and the committee. It must be recollected by the House, that a bill passed the Senate at the last session of Congress, authorizing the opening of the road as is contemplated by this resolution; that the repeated efforts of myself and colleague, Col. BLAKE, (Mr. JENNINGS being at that time unfortunately confined to his bed by severe indisposition,) to take up the bill out of its order, proved unavailing, and we were compelled to see the session close and the bill not reached on the orders of the day. It will also be recollected that I introduced a joint resolution of the General Assembly of Indiana on this subject, which was referred to the Committee on Roads and Canals. It was indeed a subject of much regret to me that the bill of the last session did not become a law, as the voice of my constituents, which shall ever be my guide, called for every exertion that could be made on my part to obtain the passage of the bill.

Sir, since the location of this road by the commissioner, a great portion of the public domain lying immediately on the line of the same, and contiguous thereto, has passed into the hands of individual purchasers, and the money into the Treasury of the United States; farms are opening, towns are laying out, and villages springing up, and the whole face of the country greatly improving, in anticipation of the opening and final completion of this great national work. National I call it, sir: for, if any work of internal improvement can properly be called national, this is surely of that character. The people consider Congress as

pledged to proceed with this great and important work, and I flatter myself their just expectations will not be disappointed. To such gentlemen as held constitutional scruples on these subjects, I will merely say, that this resolution, and the subject of inquiry, steers clear of the constitutional objections of the gentlemen; it rests on other principles. Such being the case, as frequently admitted, as I believe, on this floor, I hope we shall have the co-operation of these gentlemen as well as those who, like myself, are not troubled with these constitutional objections on subjects involving the right to make works of internal improvement. I believe we have the power, and I am willing to exercise it for the benefit of the country. It is not my intention to go into the question at this time, as it can answer no valuable purpose. I will merely point gentlemen to the compact, and to the fact that the two per cent. on the amount of the sales of public lands in the State of Illinois, which I consider pledged to this object, has already amounted to more than the sum called for by the resolution.

I have felt it to be my duty, sir, to introduce this resolution, and to make the remarks which I have submitted, at this early period of the session, that the committee may have the subject under their consideration as early in the session as possible, as I am very anxious that a bill may be reported, and finally pass, during the session, which I am aware is to be a short one.

Mr. McLEAN moved to amend this resolution, by inserting therein, after the word "location," these words, "from Zanesville, by way of Columbus, in the State of Ohio."

Mr. SMITH declined accepting of this as a modification of his resolution. So far as this road had gone into the State of Ohio, it had been made to follow the course of good roads already existing; but in Indiana this was not practicable, as no such roads lay in its contemplated course. Besides, the adoption of the amendment would involve the necessity for an enlarged appropriation.

Mr. McLEAN considered this as no valid objection to the amendment. The whole subject would remain within the discretion of the committee. As to what the gentleman had observed as to the good roads in Ohio, he must certainly be under an erroneous impression. The preparation contemplated by the resolution was as much needed in that State as it could be in Indiana.

The amendment was adopted.

Mr. SMITH thereupon modified the original resolution, so as to insert \$100,000, instead of \$50,000; in which form the resolution was carried.

THURSDAY, December 11.

*Extension of Time for Drawback.*

The engrossed bill extending the term within



which merchandise may be exported with benefit of drawback, was read a third time, and the question being, "Shall the bill pass?"

Mr. WICKLIFFE said, when the bill was ordered to an engrossment, he did not correctly apprehend the effects upon the revenue of the country to be operated by the first section, and he thought it probable the House did not devote sufficient attention to the bill when under consideration on yesterday. To the extension of the time for allowing goods entered for exportation the benefit of drawback, he did not see any valid objection, and of course would be willing to vote for the bill if that was its only effect; but the first section makes an innovation upon the settled revenue system of this Government from its origin. Our earliest legislation has charged a certain rate of per cent. upon the amount of debentures, varying according to circumstances in its amounts. For many years past it has been fixed at  $2\frac{1}{2}$  per cent. This  $2\frac{1}{2}$  per cent. has yielded to our revenue annually about the sum of \$150,000 to \$200,000. The first section of this bill proposes to repeal so much of our revenue law as imposes this  $2\frac{1}{2}$  per cent. on the amount of duty on foreign merchandise imported into the United States, (principally on foreign accounts, owned by foreign merchants and manufacturers,) in quest of a market.

I cannot be mistaken, said Mr. W., when I state that this bill will have the effect of subtracting from the revenue of the country, annually, \$150,000, three-fourths of which is now paid by foreign merchants and manufacturers. I will not undertake to point out the propriety of levying this contribution, upon the merchandise of foreigners, considered as a revenue measure, or as a just tax for the trouble, expense, and risk, encountered by the Government: the legislation of the nation for thirty years should supersede the necessity of such labor on my part. Let not gentlemen deceive themselves by the idea that this measure is to operate to the advantage of the American merchant, citizen, or manufacturer. Its beneficial effects will be mainly enjoyed by the foreign merchants and manufacturers. They are the great owners of the goods entitled to the benefit of drawback. We have our table groaning with the remonstrances of the American merchants and citizens of our commercial cities, praying Congress to impose a duty on the sales made at auction, of foreign merchandise, because of the facilities which such sales afford to the foreign importer and manufacturer, to the great injury, if not ruin, of the American merchants, and we are by this bill called upon to grant them greater facilities, and that, too, at the expense of the public Treasury. I shall say no more. I have stated my objections to the bill. I do not think I am mistaken—I know I am not in one respect—that is, the loss which your Treasury will sustain, of something like \$150,000 per annum. It is for the House to say whether this loss

shall be sustained. I desire that, when the question is taken, it may be taken by yeas and nays.

Mr. CAMBRELENG expressed his regret that the gentleman from Kentucky had not chosen an earlier opportunity to offer his objections to a part of the bill; when, if they had been sustained by a majority of the House, it might have been amended accordingly. He would, however, endeavor to show, that the gentleman had entirely misconceived the object of the deduction in question. He says we are about to relinquish a revenue of one or two hundred thousand dollars annually, and therefore the bill ought to be rejected. The statesman who framed the original act never contemplated that this deduction from the drawback should ever operate as a tax upon the carrying trade; it never had been the policy of the country to exact a revenue on merchandise in transit; no commercial country that he knew of had ever adopted a measure so injurious to its own navigation. The sole object contemplated by the original act of 1789—the first act levying duties on importation—was to indemnify the Government for all charges incidental to warehousing merchandise, which might be exported with the benefit of drawback. It was never intended to impose the smallest fraction of tax on such merchandise for purposes of revenue. The act of 1789 authorized a deduction of one per cent. from the moderate duties of that day, when the *ad valorem* rates were generally at 5 and  $7\frac{1}{2}$  per cent. The charge was equal to about five cents on every hundred dollars, and was exclusively designed to cover all incidental expenses. Under the stamp act, a stamp duty was imposed on debenture certificates; and to cover this expense, an additional deduction was made in 1800. From omission, or from some other cause, when the stamp duties were repealed, the deduction from the drawback was not restored to its original rate. We have since very considerably increased the imposts to 80, 40, 50 per cent. and upwards, until the amount now deducted for the mere expenses of warehousing, is sixteen times the rate originally contemplated, while the expenses have, in the mean time, actually diminished. There was no cause now existing for retaining any portion of the duty for the purposes mentioned in the original act. Every expense that could possibly be chargeable on merchandise deposited in our public stores, and every custom-house fee, must be paid, before it can be taken out of the possession of the officers of the customs. The property, while under the care of Government, was at the risk of the owner; the Government was in no manner responsible for its safety. We were already, by existing laws, amply indemnified for every expense incidental to merchandise designed for exportation, and the deduction from the debenture could not be defended on that ground. He was not aware that any other commercial nation had made any such deduction, unless it

DECEMBER, 1828.]

*Extension of Time for Drawback.*

[H. OF R.]

was in lieu of all incidental charges for storage, &c. The sole object of the bill, said Mr. O., is to place our foreign trade on the wise and liberal footing on which other nations had placed theirs. But even if we pass this bill, our navigating interest will not enjoy advantages equal to those granted by other nations to this branch of trade. In Great Britain, merchandise may, upon application to the Commissioners of the Treasury, remain in entrepot indefinitely for years, without even an entry being made, or the payment of any duty. According to our laws, the duty must be paid at the expiration of certain terms. The navigating interest of this country solicited no favors—they asked merely to have restrictions taken off which actually operated as an encouragement to the navigation of Great Britain and France, at the expense of our own commerce. To tax the carrying trade was substantially nothing less than levying a toll on merchandise for the privilege of crossing the Atlantic Ocean. But there was another and a stronger objection. If the 2½ per cent. deduction from the duty should be continued, its effect would be to impose a discriminating duty on our own navigation, in favor of the navigating interests of France and Great Britain, our competitors for the profits of the carrying trade. Such a measure would be detrimental not only to the navigating, but to every interest in the country. It would be utterly inconsistent with every rule of sound policy, and with the practice of all nations sharing in the carrying trade of the world. The bill would be essentially serviceable to our foreign commerce, and would enable us to contend with other nations in a branch of navigation which had been uniformly a favorite in all commercial countries.

Mr. BARNEY observed, that the honorable gentleman from Kentucky appeared to have taken up an impression on this subject which was directly the reverse of the actual state of the facts. The gentleman seemed to suppose that a large proportion of the amount of goods imported for drawback, is on foreign account. The reverse is the truth. By far the larger portion of our whole imports are for the consumption of the country, and those intended for re-exportation are imported almost entirely by our own merchants. When foreign merchants ship those goods, which are the usual subject of our drawback system, they ship them direct to the ports where they intend finally to send them, without entering our ports at all. But when our own merchants import for drawback, it is usually with a view to re-export the cargoes to the West Indies and South America. The bill operates on American merchants almost exclusively, and its object is to benefit them, and not foreigners. It makes, in fact, the ports of the United States free ports, and its operation will be to enable the foreign merchant to find here all those miscellaneous kinds of merchandise which are requisite to make up an assorted cargo. The

retaining of the two and a half per cent. of duties operates as an injury to the carrying trade—a trade which no wise nation will tax for revenue. Great Britain has in her colonial dominions, near our own frontier, free ports, which she has opened for the very purpose of rivalling us in this trade; and the result of this wise measure, on their part, is, that British merchants are enabled to save almost the whole of the freight. Under such a state of things, our obvious policy is to free our trade from every shackle. Our trade to South America is increasing every hour, and has already so far advanced as to constitute one-third of our whole exports. Under this state of things, we ought to encourage it by every means in our power. Mr. B. concluded by again insisting that the operation of the bill would terminate on American, and not on foreign mercantile interests.

Mr. BUCHANAN said, it was his intention to vote in favor of the bill, and he wished, in a few words, to state his reasons. It is true, as the gentleman from Kentucky (Mr. WICKLIFFE) has stated, that the passage of this bill will diminish our annual revenue from \$180,000 to \$160,000. The question, then, is, will the object sought to be accomplished more than indemnify the country for this loss of revenue? He thought it would. The bill rests upon a very simple principle. Great Britain is struggling to obtain the carrying trade of the world. She has established free ports throughout her extensive dominions, in which her merchants may deposit foreign merchandise without the payment of any transit duty. The wise principle upon which she acts, is, to burthen her foreign trade as little as possible. It passes free through her dominions to foreign countries.

The question, then, is, shall the American merchant be placed upon the same footing? Great Britain is our great rival for the carrying trade; and ought we not to enable our merchants to struggle against this powerful competition with the same advantages which her merchants possess? Our laws impose a transit duty of two and a half per cent. upon the existing rate of duty, on all foreign merchandise imported into the United States, to be transported to foreign countries. This operates as a discriminating duty in favor of the English and against the American merchant. All other circumstances being equal, it would in effect, be a premium to that amount, to enable the foreign merchants to undersell our merchants in foreign markets. The simple question, then, is, shall we protect our foreign commerce, by affording it the same advantages with the foreign commerce of Great Britain?

At the last session of Congress, Mr. B. said, he had exerted all his feeble abilities to promote the passage of a law for the protection of agriculture and manufactures. He considered commerce equally entitled to our favor. Its protection was equally a part of the great

American system. The duty which he felt he owed to the commerce and the mercantile interest of the country, would not suffer him to vote against this bill. It was calculated to build up our foreign trade, and enable our merchants to enter into a fair competition with the merchants of the other commercial nations of the world.

The yeas and nays were then taken, and stood—yeas 158, nays 28.

So the bill was passed, and sent to the Senate.

MONDAY, December 15.

*Drawback on Refined Sugar.*

The bill increasing the amount of drawback on sugar refined within the United States, was taken up.

Mr. CAMBRELENG, to remove all doubts as to the effect of the bill's being confined exclusively to sugars refined from foreign materials, read a paragraph from the former bills passed in 1816 and 1818; but lest any suspicion should remain, moved to amend the bill, by adding thereto the following proviso:

"Provided, That this act shall not alter or repeal any law, now in force, regulating the exportation of sugar refined in the United States, except to change the rate of drawback, when so exported."

Mr. STEVENSON, of Pennsylvania, said, this bill had, without opposition, progressed so far that he presumed resistance would be unavailing. He deemed it proper, however, to say a few words explanatory of his vote against its engrossment and passage. He was against the system of bounties, cloaked under the name of drawbacks. The bill, in fact, proposes to give from the Treasury a bounty on domestic refined sugars, when exported, of five cents per pound, under the pretext that the brown sugar of which it is made pays three cents per pound duty on its importation. The existing law allows a bounty or drawback of four cents per pound on sugar refined in the United States and exported, and this is equal to the whole duty paid on the raw sugar entering into its fabric—deducting a fair proportion of the custom-house expenses, &c., on trade. To increase this bounty is not only to repay all the duty that has been received on the sugar used, but it becomes an actual charge on the community, for the benefit of the sugar refiner.

Mr. CAMBRELENG observed, in reply, that the object of the present bill was merely to correct an error in previous legislation. The general provisions of law on this subject were as old as the constitution, and the simple inquiry at present was, what ought to be the actual amount of debenture? A report had been made at the last session, by the Committee of Commerce, in relation to this point, and if the gentleman from Pennsylvania would give himself the trouble of consulting it, he would there find that the committee agree with him,

that not a cent should be allowed in form of drawback beyond the actual cost of the foreign sugar refined. He will meet, in that report, with three distinct calculations, drawn from the most satisfactory data, and made with the greatest minuteness and care; and if, after examining them, the gentleman should not be fully convinced, his apprehensions of that gentleman's candor and powers of comprehension would prove very erroneous. In fact, the rate proposed in the present bill, instead of being carried to an extreme, left a fraction in favor of the United States. In granting such a drawback, the United States would not go as far as other commercial nations, nor would the present Congress go as far as their ancestors had done for twelve years after the organization of the Government. The constant practice had been to fix the drawback at double the rate of duty, because it required two pounds of foreign raw sugar to make one pound of American refined; whereas the present bill fixes the drawback at five cents, although the duty on each pound of imported sugar was three cents. As to the question of the general policy, when the time arrived in which that question would become one of great importance, Mr. C. said he should be ready to go with the gentleman from Pennsylvania, so far as to enlarge our system of debenture. But to refuse the drawback would be to double the consumption duty upon this article. It would be sending it, with a consumption duty exacted, by our own country, to meet another consumption duty, exacted in the foreign country whither it was carried; whereas the sugar refined abroad was loaded with only one such duty. Mr. C. concluded his remarks by observing, that the subject was not new, nor had he advanced the views he had expressed as having the least claim to novelty. They had long been received and acted upon, and the only question to be settled at this day was, as he had before remarked, the actual amount of the drawback to be allowed.

Mr. STORRS, of New York, said that the effect of the bill, as he apprehended, would be, by granting an additional drawback on refined sugar, made from that of foreign growth, to place it on the same footing with sugar refined from that of domestic growth. There might formerly have been a good reason for allowing this drawback, for at that time we possessed no sugar lands, and raised no sugar of domestic growth. But since then, the state of things had been greatly changed, and the United States now raised, within its own limits, a large proportion of the sugar actually used in the country. There was a difference between allowing drawback on the mere transit of articles which left the United States in the same condition in which they entered, and allowing drawback on articles, the form of which was changed after their importation. Government ought to be cautious how it lets articles of this description compete with similar articles of our

December, 1838.]

*Drawback on Refined Sugar.*

[H. OF R.]

own production. The general policy of this Government had been not to allow drawback at all upon articles of this kind. Much difficulty had been experienced in the case of imported silks stamped here and re-exported. The gentleman, surely, would not apply the doctrine of drawbacks to cotton goods manufactured in the United States and exported, if the cotton of which they were made were an imported article, or to woollens, if the wool was imported. The provision appeared to him impolitic, if not unjust.

Mr. GORHAM said that the operation of the bill did not appear to him to be rightly understood. What is it, asked Mr. G., which the bill on your table does in effect say? It says only this: that if there is in this country any skill and industry which may be usefully employed upon a foreign material, you, the Government, will encourage such industry and skill. The gentleman from New York appears to think that the effect of the bill will be to introduce a rival to the growth of our domestic sugar; but so far was this from being the case, that the only difficulty which the Committee of Commerce apprehended, when they introduced the bill, was, that its effect would be to allow the drawback on our own sugar, which was intended only for sugar imported. Suppose ever so many millions of pounds to be imported and re-exported—so far as our consumption at home was concerned, the drawback would produce no competition between this sugar and our own, because the drawback is allowed only on the exportation. The theory of the act is this: that there are skill and capital in this country, which can be advantageously employed in refining and improving the form of a foreign article, and that you will encourage such an employment of it.

If sugar could be raised as cheaply at home as it can be imported, we should not go abroad for the article. The manufacture, then, would be of the domestic article, and not of the foreign, and every pound of our own sugar, refined and exported, would get the drawback. The bill, therefore, does not cramp and restrain, but, on the contrary, tends directly to encourage the growth of sugar in the United States. The domestic grower would have the price fixed by home consumption, and would get the drawback too. He would then have no rival; so that the argument from this bill goes rather the other way. The real danger is, that, sooner or later, such an invitation will be given to the manufacturer, that the American article will carry the drawback. The law, to be sure, attempts to prevent this, by prescribing oaths, but that is not the true security. The security lies in the nature of the transaction: for it will be easy to tell whether the Government pays more for drawback than it gets for duty. If the drawback does not exceed the duty, then the law will have been faithfully observed. For, if there are a hundred hogsheads of foreign sugar, and another hundred hogsheads of

domestic, and if the two parcels are equally cheap, what is it to the public which of these the refiner chooses to use? If they are equally cheap, there is no need to discriminate between them. The true test is, does the drawback exceed the duty? If it does, then you are paying a bounty for exportation.

Mr. McDUFFIE said, that, from the commencement of the present discussion, he had entertained great doubt as to the policy of this measure, and although he did not concur in all the views which had been urged against the bill, he had come to the conclusion that the bill ought not to pass. The allowance which it proposes to grant to the manufacturers of refined sugar, is denominated, indeed, a drawback; but a reference to the argument by which it has been vindicated, as well as to the practical effect of the law, will demonstrate that it is in fact, and in truth, a bounty, upon the exportation of refined sugar, manufactured in the United States. Disguise it as we may, said Mr. McD., this is the commencement of a system of bounties upon the exportation of domestic manufactures, and can only be regarded as an extension, in a new form, of that system of policy which has been recently exemplified, in raising the duties upon imported merchandise, almost to the point of prohibition. The gentleman from Massachusetts (Mr. GORHAM) has very truly said, that it is perfectly immaterial, both to the manufacturer and to the community, whether the refined sugar is made from brown sugar, grown and made in the United States, or from that which is imported from abroad. In point of fact, the law will operate precisely as if the drawback were allowed indiscriminately upon sugars refined either from domestic or imported brown sugar. It cannot, therefore, with any propriety, be regarded as a branch of the drawback system, which is confined specifically to the refunding of the duty paid to the Government by the importer. Now, is it pretended that the five cents a pound which is to be paid to the exporter of refined sugar, goes into the pocket of the importing merchant, by whom the duty upon the imported brown sugar was paid to the Government? I put it to gentlemen to say whether, under the disguise of a drawback, this is not the first step towards a complicated system of bounties and prohibitions, each sustaining the other, and all concurring in the oppression of the community?

Mr. STORRS said that the remarks that he had made when last up, had been misunderstood. He was not opposed to the system of drawback, but he did not consider this bill as legitimately pertaining to that system. As to the importation of articles intended for transit merely, he thought that a reasonable time ought to be allowed for the payment of the duty, whether it were twelve or twenty-four months. But the present was a different question, and always had been so considered. The present was a question respecting articles imported into

the United States, and altered by the manufacturer before they were re-exported for the benefit of the drawback. There were but few articles thus situated, and the regulations respecting them did not constitute any general system at all. They were, for the most part, articles which we did not raise, such as silks, afterwards stamped in the United States, and one or two others of a similar kind. The present bill went to enlarge the principle, and to extend the system. A ship was an article manufactured in the United States; but did anybody ever think of asking or granting a drawback on the iron employed in its fabrication? Such a thing was never heard of. In relation to sugar the state of things was altered since the law was first passed. We now raise sugar in the United States, and that in large quantities. Mr. S. said he was not for going back and repealing the law, since it had now been long established, but he could not see any propriety in now extending it. The whole importation of sugar amounted to fifty-five millions of pounds. In 1824, the quantity of domestic sugar raised was forty millions of pounds; in three years it had increased to seventy-six millions; half as much again as the whole had formerly been. It had doubled in three years, and if it should go on increasing in the same proportion, in three years more it would equal the whole amount both of what is now raised and imported. If the product was increasing at this rate, Mr. S. asked whether he had not been right in saying that domestic sugar was a branch of our home product well worthy of our looking to. [He would not use the word protection, as that word seemed to be peculiarly offensive to some gentlemen in the House.] The present amount of drawback was but eleven thousand dollars, paid upon about three hundred hogsheds, and for an object like this, gentlemen were asking the House to introduce a principle which struck at a home product of seventy-six millions of pounds. Was the play worth the candle? The gentleman from Massachusetts (Mr. GORHAM) had said, that if capital sought investment in the carrying trade, ought it not to be allowed to take that direction? Certainly. But would it be a more profitable application of capital to carry foreign sugar refined in the United States, than to apply that capital to the raising and refining both? Then the whole article would be our own; we should have the carrying of it in both cases, and the profit of raising it besides. Should the amount become very large, the argument urged by the gentleman would bear the other way. The principle of the present bill was one which had always been resisted in this House, and he thought it was worth a little consideration and some delay, before the Government ventured to extend it farther.

Mr. SPRAGUE said he was glad to find that the gentleman from New York, (Mr. STORES,) for whose opinion he entertained a high respect, agreed with him in the general principles which

sustained the drawback system. That gentleman's opposition to the bill resolved itself into a question of fact, not of principle. He objected that it would interfere with our domestic sugar. Such, Mr. S. said, would not be the case, for two reasons: First, our domestic sugar is not suitable for refining, and the foreign sugar alone is used for that purpose.

[Mr. STORES explained, He said that the foreign sugar was better adapted to the purpose of refining, from having been longer in the country and better drained.]

Mr. SPRAGUE resumed. Whatever might be the cause, the fact was not denied by any one that our domestic sugar never goes to the refiners; it is not suited to their use as the foreign sugar is, and therefore does not come in competition. In the second place, we do not produce domestic sugar enough for our home consumption. We must, for some time certainly, continue to import largely from abroad. It is said that the quantity made in the United States, is fast increasing, but it is to be recollected that our population and consumption are fast increasing also, and we certainly cannot expect to be soon supplied from our own soil; and so long as we import for our own consumption, there certainly can be no competition in the foreign market between our own and foreign sugar.

The gentleman from South Carolina (Mr. McDUFFIE) insists that allowing this drawback is giving a bounty upon the exportation of sugars. He says that the importer pays the duty, and that, afterwards, we pay back the amount to the refiner, as a bounty; that the article having been brought into the country, repaying the duties is a dead loss of so much to the Treasury. This proceeds upon the assumption that the same quantity would be imported, if re-exportation was not permitted. If such were the fact, the consequence would be to depress the price of domestic sugar—an effect which has been so much deprecated. Having the article here, if we prevent its flowing off, in the usual channels of commerce, the accumulation inevitably reduces the price. Exportation of the foreign article is, in such case, as highly beneficial to the domestic producer, as if the same quantity of his own found a market abroad.

Mr. DRAYTON was in favor of this bill. Its operation was not injurious to any, while it produced a benefit (not indeed to any large amount, but still a great benefit) to the commerce and navigation of the United States. How (asked Mr. D.) are we to pay for the sugar on which we refund this duty? Certainly by our native products: for there is no way of paying for imports but by exports. This benefits our agriculture. Then we have the transport of the goods—this benefits our commerce and navigation; while, at the same time, we introduce into the country a species of manufacture which otherwise would not exist. Against a bill so evidently beneficial, and productive of no ill effect to any, he was at a loss

DECEMBER, 1828.]

*Drawback on Refined Sugar.*

[H. OF R.]

to perceive what valid objection could be brought. He would briefly notice one or two which had been suggested. The gentleman from New York (Mr. STORRS) had said that the effect of the bill would interfere with the growth of domestic sugar. But how was this possible? If instead of sugar, the drawback was granted on coffee, or on any other article not raised in the United States, it would as much interfere with the domestic product of coffee, as of sugar. Why would it not interfere with the growth of coffee? Because none was grown within the United States. And why would it not interfere with the growth of sugar? Because enough was not raised in the United States to supply our home consumption, and therefore competition was out of the question. Competition could not exist unless the imported article was put on a footing with the domestic. But the duty on the foreign was equal to one-third of its value. Competition was therefore out of the question. Sugar raised here did not sell merely at the cost of production, but at a price in which the duty was included; and as the foreign article was saddled with a duty of three cents a pound, the domestic bore the same price, and that three cents was clear profit. Our own sugar, as every one knew, was used exclusively in its raw state. All the refined sugar in the United States was manufactured from the foreign article alone. If it were not, we should necessarily import the refined article from abroad. That would pay the duty, and this duty would be paid by the consumer; whereas, by allowing its importation with drawback, the article is obtained cheaper, while all our domestic sugar is raised exclusively for consumption in other ways. The effect was unavoidable. We manufactured a new article of exportation. This produced importation, the importation paid duty, and the duties augmented the revenues of the Government. The effects of the system were all beneficial, and injured nobody, and why should it be objected to on mere abstract principles?

TUESDAY, December 16.

*Internal Improvements.*

Mr. HALL, of North Carolina, rose and said, that the resolutions which he was about to present had been suggested by a bill which he found on his table—the Cumberland road bill—the provisions of which he believed contrary to the constitution, and the fundamental principles of our political institutions. It was not his purpose, himself, to go into a discussion of the abstract constitutional question. But if it should be thought proper by others, the resolutions might offer an option to the House, in discussing the question separately from the bill. If this should not be done, (Mr. H. said,) the resolution would yet serve him as a protest against the bill and its principles. Mr. H. then offered the following resolutions:

*Resolved, &c.* That the people of the United States, in the formation of their Governments, did not alienate their sovereignty.

*Resolved,* That the rights of jurisdiction and soil are the essential attributes of sovereignty.

*Resolved,* That the power to execute a system of internal improvements, within the States, involves the right of jurisdiction and soil.

*Resolved,* That the power to make Roads and Canals within the jurisdictional limits of the States, and to make laws for their preservation and protection, and to erect toll gates, and to enforce the collection of tolls, involves the right to execute a complete system of internal improvements.

*Resolved,* That Congress does not, under the constitution, possess this power.

The resolutions were ordered to lie on the table.\*

*Drawback on Refined Sugar.*

The bill increasing the amount of drawback on sugars refined within the United States, came up.

Mr. GILMER remarked, that, as he was not very conversant with commercial subjects he should not have engaged in the discussion of this bill, but that the origin of the allowance of a drawback upon refined sugar had not been stated, nor the operation of the present allowance fairly represented to the House. We have been told that the allowance of drawback upon sugar refined within the United States had been coeval with the constitution. We were not, however, informed of any difference in the policy which produced the first law upon this subject, and that which is the evident object, for the passage of the present bill. The first law allowing a drawback on refined sugar was passed in 1794, and was entitled "An act laying duties upon snuff and refined sugar." The duties to be collected by virtue of this act were to be appropriated to the payment of the public debt. In order to secure to the Government the highest possible revenue from this excise upon refined sugar, a heavy duty was laid upon imported refined sugar. The entire supply of that article, for domestic consumption, was thereby given to the sugar refiners. For the purpose of enabling them to furnish that supply, and, at the same time, to avoid the consequences of a great surplus in the market, by which the refiners would be less able to pay the excise, a drawback was allowed them, equal to the excise and the duty upon the raw sugar imported, upon all refined sugar exported. They were allowed the benefits of the foreign market, that they might be the better enabled to pay a tax imposed by the Government upon the home consumption. Mr. G. observed, that, from our proximity to the West Indies, and the circumstances that the most essential supplies of the sugar islands were drawn from the United States, a large quantity of sugar was brought into the United States for exportation; so that

\* These resolutions, like all others on the same subject, were confined to States.

the sugar refiners were enabled, very soon, not only to supply the home market, but to transport a considerable quantity for the foreign market. The internal duty upon refined sugar ceased after the 30th of January, 1802. In 1818, an internal duty of four cents, was again laid upon sugar refined within the United States; and for the same reason as before, a drawback was allowed upon exportation. By the act of 1816, the duties upon refined sugar were continued, and the drawback increased. By the act of 1817, the duties upon refined sugar were repealed. By the act of 1818, the drawback allowed by the act of 1816, of four cents a pound, upon refined sugar exported, was again re-enacted. Mr. G. observed, that the act of 1818 was the first which allowed a drawback upon refined sugar, unconnected with an internal duty.

Mr. G. said he had been thus particular, in order to show more clearly that the gentleman from New York (Mr. CAMBRELENG) was mistaken, in supposing that the policy now contended for had been adopted during the first Administration of the Government. He said he would now attempt to show that the gentleman from Pennsylvania (Mr. SERGEANT) was mistaken, in supposing that the export of refined sugar had decreased in consequence of the drawback being no more than four cents.

The export of refined sugar entitled to drawback was,

In 1818,	- - - - -	\$58,993
" 1819,	- - - - -	47,788
" 1820,	- - - - -	18,044
" 1821,	- - - - -	156,527
" 1822,	- - - - -	177,065
" 1823,	- - - - -	55,187
" 1824,	- - - - -	57,908
" 1825,	- - - - -	50,017
" 1826,	- - - - -	168,991
" 1827,	- - - - -	236,744

From which statement it appeared, (said Mr. G.,) that so far from the export having lessened by the operation of the present law, more refined sugar was exported during the last year than any other year since the passage of the law in 1818. Mr. G. observed, that he supposed the object of the drawback at present allowed, was, to enable the refiners so to extend their business, as always to have an ample supply for the home market, and in case of the accumulation of any great surplus, to enable them to export without loss. This object was fully attained by the present duty. But, said Mr. G., that object was a very different one from what the advocates of this bill wish to effect by its passage. They desire so to model our revenue laws as to direct thereby the application of a portion of our capital and labor to the manufacture of an article for exportation out of materials of foreign growth. Hitherto, the advocates for the encouragement of domestic manufactures, by means of our revenue system, have confined their views to the supply of the home market. of such manufactures as were

made of materials the growth or production of our own country. The present bill goes farther. It designs the creation of a manufacture of foreign materials, and for the foreign markets. He said, that, whenever the situation of the people of the United States enables them to manufacture for the foreign market, without the aid of the Government, they will have the right to do so; and the Government cannot constitutionally restrain them. But the Government (Mr. G. said) had no right to create a manufacture by bounties, nor was it politic to do so, if it had. The Government, he said, had the power to lay imposts, and to regulate commerce with foreign nations. There was no other power granted to it by the constitution, by which the bill could be passed. The creation of a manufacture within the United States cannot be considered a regulation with any foreign nation. And it would be equally absurd (Mr. G. said) to call a bounty of five cents a pound upon refined sugar exported, an impost or a tax for the purpose of revenue. But (Mr. G. said) he did not intend to enter at large into the discussion of this part of the subject. He wished it not to be agitated during the present session. The question of policy he considered of great importance, not so much from any consequences that would follow from this particular bill, but from the principle it would recognize, and the practice that would follow, in relation to other subjects.

Mr. G. admitted that this bill would not affect injuriously the productions of domestic sugar, and that its general effect would be to add some wealth to the country. He admitted that the five cents bounty to be paid, must however be previously secured by the Government, from the duties on raw sugar, which would not otherwise be imported. Mr. G. said, it might seem, from this admission, that he ought not to apply the term "bounty" to the five cents to be paid upon exportation rather than drawback. He justified himself from the circumstance of this five cents being paid in a manner that would not authorize the payment of a drawback upon any other article; and he called upon the gentleman from New York (Mr. CAMBRELENG) to say whether this was not so. The sugar which the refiners use is not imported nor entered for the benefit of drawback. They refine, indiscriminately, from the mass of sugar imported for the home market, and do not send it abroad until some favorable foreign market is offered. Mr. G. said there was one circumstance with which he had been particularly struck; and that was, that all the zealous advocates of this bill were gentlemen who represented the great cities upon the Atlantic, (Mr. GORHAM, from Boston, Mr. CAMBRELENG, from New York, Mr. SERGEANT, from Philadelphia, Mr. BARNEY, from Baltimore, and Mr. DRAYTON, from Charleston.) These gentlemen, no doubt, represented the interests of their constituents; but (Mr. G. said) it would be well worthy of consideration, whether that interest



DECEMBER, 1828.]

*Drawback on Refined Sugar.*

[H. OF R.]

was not, in this instance, peculiar, and such as had little connection with the interest of the nation. The manufacture of refined sugar for exportation, and almost entirely that for home consumption, must necessarily be confined to the large importing cities upon the seaboard, because sugar is too heavy an article to be carried into the country, refined, and then returned for exportation. Mr. G., therefore, felt himself authorized to say, that the great object of this bill was, to give employment to an increased capital and labor, in the cities on the Atlantic. Mr. G. said that he had admitted that the consequences of the passage of this bill would be an increase of wealth. But, said he, wealth is not the sole source of the strength of a Government, or the happiness of a people. He doubted, himself, whether any manufacture, within the United States, solely for foreign exportation, and created by the forced action of the laws, would be beneficial to the country. He believed that such an interest would always require as great an expense to defend it as it was worth.

Mr. SILAS WOOD, of New York, observed, in reply, that the gentleman from Georgia was certainly mistaken in supposing that drawback in relation to the present article was intended for revenue, by way of excise. At the time the law was originally passed, there was an excise duty, as well as an impost, and if the object had been to raise a revenue from refined sugar, by way of excise, when the impost was remitted by granting a drawback, the excise duty would, of course, have been continued; but the fact was the reverse. The excise duty was remitted as well as the impost. The object of the law was entirely different: it was intended to foster and increase the commerce and navigation of the country.

The article of sugars forms an essential article in our commerce. Our exports to the West Indies, by which we paid for them, amounted to upwards of \$4,000,000, and three-fourths of these exports consisted of the products of agriculture; there was not an article in all our list of imports which tended more directly to encourage the agriculture of the country. It furnished a market for three millions of dollars' worth of our own products, and a vast proportion of that amount consisted of bulky articles, such as lumber, live stock, and fish, the transportation of which gave employment to much tonnage, so that this branch of trade gave encouragement at once to the agriculture, commerce, and navigation of the country. From the beginning of the Government the policy of the drawback system had been to make the drawback equal to the duty; but experience had proved that such was not now in fact the case. The duty was three cents per pound upon the raw sugar, and including what was lost in the process of refining, every pound of clarified sugar required two pounds of the raw material. The loss in refining was found to amount to something less than a cent; to in-

demnify the refiner, therefore, the drawback ought to be something more than five cents. The bill, however, fixed it at five; and in so doing, it but continued the policy heretofore invariably pursued from the foundation of the Government. For want of this equality, the business was found to languish, and the true reason why it had not flourished and increased of late years, as it had done formerly, was, that the Government was drawing from the pocket of the refiner a portion of the proceeds of his industry—it was sharing with him the profits of his business. In all other commercial countries, the drawback fully equalled the duty paid; the consequence of which was, that sugar refiners were able to undersell, and actually do undersell, those of the United States, and thereby monopolize the foreign market. In Great Britain this branch of manufacture was husbanded with assiduous care, as furnishing a valuable branch of commerce; its amount, there, fluctuated from 20,000,000 to 28,000,000 of dollars, averaging 24,000,000 annually; and while they import 24,000,000 of dollars' worth of the article in a raw state, they export in the same state only seven millions, while of refined sugar they export the same amount of seven millions, the balance going to home consumption. Now the British manufacturer is less favorably situated than the American, for he is at a greater distance from the sugar market; and yet, there, they export by millions, while we only by thousands. Why cannot we manufacture as much of the article as the English? The true reason is, that the English manufacturer has his whole duty remitted, while the American only has a part; the one enjoys his whole profit—the other shares his profit with the Government. If, then, the effect of this bill will be, to encourage a branch of business favorable at once to manufactures, to commerce, and to agriculture, why would gentlemen refuse a bill so evidently advantageous to the country? As things stood, while Great Britain exported seven millions, we exported but twenty-seven thousand. The business, therefore, was in a languishing state; nor could any one wonder at this, when he considered that the Government were retaining in their own hands, nearly one-third of the duty. The manufacturers had invested a large capital in buildings. Their business was beneficial to the country, and injured nobody. Their request was reasonable, and to comply with it would, in his apprehension, be both politic and just.

Mr. WEEBS said he was in favor of the bill, and would briefly assign the reasons which induced him to support it. He considered the carrying trade as important to agriculture, and held it to be a duty of Congress to encourage it—not, indeed, by granting it a premium; but he did not consider the drawback allowed to sugar refiners as a premium at all. He entirely concurred in the very able view of the subject which had been presented by the gentleman



from Maine, (Mr. SPRAGUE.) It was merely a paying back to the importer what he had paid in the shape of duty. It could make no difference to the Treasury whether the Government paid this back to the importer himself or to a third party. The importer, when he sold to that third party, would, of course, include in its price, the duty he had paid; and when the article left the country, the duty ought to be remitted to whoever happened to be the holder. He could see no reason why such a manufacture ought to be encouraged; would to God that all the partiality lately exhibited by the Government in the encouragement of manufactures could be justified on ground as solid as this.

Mr. TAYLOR said he had been anxious yesterday to obtain the floor, merely to call the attention of the House to the facts of this case, as they were exhibited in the documents in possession of the House. So far as he knew, it was not proposed by any gentleman to repeal the existing drawback; the propriety of the principle seemed to be generally admitted. The only question before the House respected the rate at which it ought to be fixed. Now, if gentlemen would turn to the history of this manufacture, they would find that its results presented a singular anomaly in the progress of American commerce and enterprise. It was a branch of manufactures, which, at an early date, had obtained complete possession of the American market; and though it had existed for twenty years since that time, it had scarcely advanced a step beyond the ground it then possessed. It retained the domestic market still, but it could not compete with the foreign article in any other country in the world. In this respect, it was unlike every other manufacture which had grown up in our country. In the year 1816, we had first commenced the manufacture of cotton, and at that time the House was very gravely warned that the youngest member then on the floor would never see the time when the cotton manufacture would reach the point of supplying our own demand. Yet, it was only four or five years before the American market was fully supplied, and we began to export to a large amount. The channels of commerce required the article, and it went into competition with the foreign all over the world. The same thing was true of the manufacture of hats and of boots, more especially since the markets of South America have been open to us. As to the article of refined sugar, if gentlemen would consult the Treasury returns, from 1821 to 1826, they would find that what we imported amounted to almost nothing. [Here Mr. T. quoted the amount of duties in each of those years.]

The American market was fully supplied by our own manufactures, while at the same time we re-exported so great a quantity of crude sugar, that the drawback on it amounted to a very large sum. [Here he again quoted the tables.] This shows that there was more raw sugar

brought into the country than was consumed, and of this, doubtless, a large proportion would have been refined had that branch of manufacture been duly encouraged. Why was it that this article alone should remain stationary, or nearly so, while all others were rapidly advancing? Was it owing to any want of capital? This could not be the reason: for it had just been stated that the sugar factories were seated in the very heart of all the capital in the country. We possessed all manner of facility for such a manufacture, and, from our mere local situation, were better fitted for carrying it on than any other nation in the world. The articles which we exported to the sugar markets were such as found a market nowhere else. What reason then could be assigned why such a manufacture should languish? The reason already stated, was undoubtedly the true one. The Government put into its coffers a part of the profit which ought to go into the pocket of the manufacturer. Very exact calculations had been made, and they went to show that the drawback should be nearer six cents than five. He would consent to fix it at six cents, but as the Committee of Commerce had thought fit to report it at five, he should not insist, but hoped that that amount would meet with general approbation. As to the present exports of refined sugar, they were very inconsiderable. [Here Mr. T. referred to the returns.] This was a mere drop in the bucket; it was as nothing in comparison to the amount of crude sugar re-exported.

Mr. McDUFFIE offered the following amendment:

"Sec. 2. *And be it further enacted*, That no person shall be entitled to the drawback allowed by this or any former act of Congress, unless the refiner of the sugar shall make oath that the refined sugar which is proposed to be exported was not manufactured from sugar made in the United States."

Mr. McDUFFIE said that, in offering the amendment he had submitted, he was governed by an apprehension which he had already expressed, that this law will, at some future time, not distant, become the means of enabling the refiner of sugar to obtain a bounty upon the exportation of his manufacture, under the pretext of obtaining merely a drawback of the duty paid upon imported brown sugar. As the law now stands, the exporter of the refined sugar is required only to swear that he believes the sugar exported was made from a raw material which had been imported, and on which the duty had been paid. Now it is extremely apparent that the exporter of refined sugar may very conscientiously swear that he believes it was made from brown sugar that had been imported, upon no better grounds than the statement of the refiner—the very person most interested to deceive him. It will not certainly be imposing any inconvenient trouble upon the exporter to require him to state positively, what he has the means of knowing with positive certainty, that the manufactured article is

DECEMBER, 1828.]

*Drawback on Refined Sugar.*

[H. OF R.]

not made from brown sugar of domestic growth. I am inclined to believe, that, in five years, the domestic production of brown sugar in the United States will be equal to the whole consumption of the country. It will, then, be exceedingly convenient for the refiners of sugar to receive five cents a pound upon its exportation, where there will not be the slightest ground for considering it a drawback. And it is to provide against this approaching state of things, (said Mr. McD.) that I am anxious to throw every guard which prudence can suggest around this new system of drawbacks.

Mr. CAMBRELENG said he certainly should not oppose the gentleman's amendment; it was merely re-enacting, substantially, the act of 1816. He would, however, suggest the propriety of some modification. The exporter ought not to be called upon to swear to that which he knew nothing about. The refiner was the only person who could take such an oath. He considered all these provisions as inoperative. The domestic raw material could not be used in refining for many years to come. He had great respect for the judgment of the gentleman from South Carolina, and although he knew that the revolutions in agricultural industry were quick, still he could not believe, with him, that the Louisiana planters would, in five years, supply the whole consumption of the country. He should recollect that it is more than twenty years since we commenced the cultivation of sugar, and that our population is rapidly increasing. He should be mistaken, if the planters did not, for twenty years, find it more profitable to continue in the business they were now engaged in, than to undertake to manufacture for the refiner. Discoveries in refining may produce an earlier change, but extended cultivation will not.

The bill was ordered to its third reading, by yeas 117, nays 71.

WEDNESDAY, December 17.

*Drawback on Refined Sugar.*

The engrossed bill "allowing an additional drawback on sugar refined in the United States and exported therefrom" came upon its passage.

Mr. GURLEY, of Louisiana, said: Much as had been said by some gentlemen as to the injurious effect of the bill upon the sugar grower, he, so far as he represented the sugar-growing interest, should entertain no fears as to the effect of the bill, for some years to come. That interest would not, at present, be affected by the bill, either one way or the other. It certainly could have no direct influence on the growth of domestic sugar, and its only influence would be of an indirect kind, operating in a way which he would shortly explain. In the meanwhile, he could not but express his amazement that a bill like this should receive the approbation and support of the friends of what was denominated

"the American System." Here is an instance in which the nation has within itself the raw material. What is the policy advocated by the friends of that system, constituting, as appeared, the majority of this House? They had uniformly maintained that, in such a case, the true policy of the country was to foster the manufacture of the domestic article, by keeping out foreign competition; and yet here they advocated a bill which went on a policy directly the reverse. He had said that this measure would indirectly affect the sugar-growing interest, and it would do so by retarding the period when the domestic article could be produced and furnished of a quality fit, in all respects, to supplant the foreign article, and to supply the whole demand, not merely for the purpose of table consumption, but also for the use of the refiner: for there was no foundation whatever in the assertion, which had been so confidently advanced, that the American sugar was, in its own nature, improper for the process of refining. It was true that the domestic article is not at present employed for that purpose; but why? The foreign article yielded the refiner a drawback of three cents a pound, and, of course, so long as this was the case, the foreign article would be preferred. This alone was sufficient to account for the fact.

Mr. J. S. STEVENSON said, the passage of this bill is insisted on upon the ground that the existing law, giving a bounty of but four cents, does injustice to the refiner of imported sugar; and its advocates claim the sum of five cents per pound from the Treasury, on the exportation of a pound of refined sugar, alleging that a sum equal to this had been paid as duty on the imported brown sugar used in the manufacture. This allegation is in the face of the facts, as the refiners of sugar admit that one thousand pounds of good brown sugar will yield 510 pounds of refined sugar, and leave 230 pounds of unrefined (equal in value to the brown used) and 80 gallons of molasses. Now the 1,000 pounds of brown sugar pays a duty of \$30; deduct \$6 90 from this on the sugar remaining, but unrefined, and 10 cents a gallon, the duty on molasses, equal to \$3, and allow a drawback on the exportation of 510 pounds of refined sugar, at the rate of 5 cents, equal to \$25 50, and the whole amounts to \$35 40, or an excess over the duty paid of \$5 40. This, all must admit, is an actual charge on the citizens of the United States for the benefit of the sugar refiner. He is, in fact, enabled to sell refined sugar in the foreign market at four or five cents a pound less than he can sell it to our own citizens. Surely it is a strange perversion of legislation to tax our own citizens, and expend that tax in a bounty, to enable foreigners to use refined sugar at a lower price than our own citizens, who pay this tax. The principle of the bill is also objectionable in this: that, by giving a bounty to the refiner of foreign sugar, and refusing it to those who manufacture that of your own country, you make it largely the

interest of the refiner to purchase foreign and refuse domestic sugars; and he who does so, can drive the refiner of domestic sugar from the foreign market, by your bounty for refining foreign materials.

Mr. BRENT, of Louisiana, said, that he hoped the House would excuse him for trespassing upon their attention at this period of the discussion; that it was unusual for him to force himself into debate, and nothing but the peculiar attitude in which he stood, as a representative of the sugar-growing interest of Louisiana, could now have called him from his seat. A strange state of things had occurred; and (said Mr. B.) I find myself voting against the passage of this bill with those gentlemen who avow their hostility to its passage, because they fear it may encourage the domestic growth of sugar in Louisiana. I have come to a very different conclusion, and am opposed to it because I believe the bill will give a preference to the foreign sugar imported into the United States, over the domestic sugar of our own country, and because it repeals the law imposing a duty upon the foreign article to a certain extent, and to that extent comes in competition with our domestic sugar, and because, in its effects, in some degree, the faith of the nation, under which our sugar manufactories have grown up, will be violated. Can gentlemen doubt that this bill gives a preference to the foreign sugar over the domestic? It is a well-known fact, that the Louisiana planter sells his sugar at this time for three cents of profit per pound more than the seller in the United States of the foreign article, owing to the duty paid by the latter; and if this duty be repealed so far as to allow the refiner of foreign sugar to be repaid the duty on every pound of foreign sugar refined and exported, is not this placing the foreign article not only upon a footing with the domestic, but giving it a preference? as it is well ascertained that the foreign sugar is manufactured at less expense, and can be sold lower, when made, than ours. But, say gentlemen, Louisiana ought not to complain, she has no right to do so, "because there is not enough sugar made in the United States for home consumption; and even should there be, the sugar of Louisiana cannot be refined." I ask the same gentlemen who make this statement, if such was their reasoning when they urged a protecting duty for hemp, iron, wool, &c.? It was not pretended by them that these articles were made in sufficient quantity for home consumption at that time, but their argument was, that our country had the capacity to supply them. That fact, they told us, was all that was wanted to be ascertained; and having ascertained it, they urged the protecting duty to encourage the establishment of their manufactories. Is not this the case with our sugar establishments? Experience shows that we can grow the sugar at home; and as to our capacity to supply it, every year develops the rapid increase in that article manufactured at home, to an extent to

justify the opinion that, in a few years more, we shall not only supply our home consumption, but can, with proper encouragement, become exporters of the article to foreign countries. I ask the attention of gentlemen to facts. I well recollect that, during the session of 1824, when the tariff was under discussion, we were then told that Louisiana could never supply one-third of the sugar necessary for home consumption. I then endeavored to remove that erroneous opinion; and what have the last three years shown? Why, facts have answered those assertions—let them speak. In 1824, there was exported from New Orleans, 40,000 hogsheads of sugar; in 1827, three years afterwards, there was exported 71,000 hogsheads from the same place, besides the exportation from Nova Iberia, on the Teche, and what was used for home consumption, supposed to be about 6,000 hogsheads more, making in all about 77,000 hogsheads of sugar made in Louisiana, in 1827, and nearly doubling the amount made in 1824; and from every information I can obtain, the present crop of cane now manufacturing into sugar in Louisiana will increase the manufacture of sugar for 1828 to at least 90,000 hogsheads, within 40,000 hogsheads of all the sugar necessary for home consumption and foreign exportation in the shape of refined sugar. If then, in the last four years, the manufacture of that article has increased 50,000 hogsheads, is it not fair, is it not irresistible, that, in the next four years, we shall make more than we can use at home, if we had the lands to cultivate? and, as to that, I state that there are in Louisiana alone, within what is called the sugar region, 800,000 acres of land, adapted to the culture—a quantity of land enough to supply for ages to come all the sugar that will be wanted for any purpose in the United States. This is no visionary scheme. You are not called upon to believe these things from statements made by interested persons. The documents upon your tables, your official treasury reports, show what I say to be true. Have we not then capacity to make the sugar? Certainly we have, and if so, I invoke the advocates of the duties upon foreign hemp, wool, iron, molasses, &c., to oppose this bill, and thereby to be consistent in their principles. But some gentlemen have said, and particularly the gentleman from New York, (Mr. CAMBRELENG,) that the sugar of Louisiana will not answer to be refined. I would ask, why? Is not our sugar as good as the foreign, and is it not preferred for domestic purposes? If the refiner of brown sugar has not used it for that purpose, it is not because we cannot make it to answer, but, because, by your allowing a drawback upon the foreign article, the refiner buys it cheaper than ours, and we can get no encouragement to make it for the refiners. Why cannot the sugar of Louisiana be made to answer? I should like some reason to be given for it. The gentleman (Mr. CAMBRELENG) can give none. I say it can be made as fit for that pur-

DECEMBER, 1828.]

*Drawback on Refined Sugar.*

[H. OF R.]

pose as the sugar of any other country. The fact is, in Louisiana, the sugar is so far preferable for ordinary uses, to the West India and other sugars, that the purchasers buy it up and throw it into market so soon as it is made, while the foreign sugars remain for months on their plantations during the summer heats, cleansing and separating itself from the molasses, leaving only a firm and hard grain. Let our sugars undergo the same purification, they will be equally good. This must sooner or later be the case: for once that we make sugar enough for home consumption, our manufacturers will become rivals at home in its sale, and the market will not be so briak; and then our sugar, like the sugars of other countries, will be left to cleanse and harden in the purgeries. If gentlemen's preference to this bill is founded on such fears, I trust and hope they are dispelled, and they are satisfied that we possess, in Louisiana, the capacity to supply sugar for any purpose wanted; we can make sugar to supply the refiners, and this law enables them to prefer foreign sugar to ours. Does it not injure the manufacturer of sugar in Louisiana? If this drawback was not allowed to the refiner of foreign sugar, he would be obliged to use for that purpose our domestic sugar.

It is equally clear that, to the extent foreign sugar is refined in the United States, the present bill will repeal the law imposing three cents per pound upon that article. The law imposing a duty upon foreign sugar intends that no foreign shall be brought into the United States unless subject to that duty. The present bill intends that, if the foreign sugar be brought into the United States, and refined here for exportation, it shall pay no duty at all—that the duty shall be returned—drawn back; so far then the former law is virtually repealed; and, as a Representative of that interest the protecting law is intended to foster and encourage, I must vote against the passage of this bill.

Sir, the manufactories of sugar in Louisiana have grown up under the existing laws of the country imposing a duty on the foreign article, with a view to the revenue. To do any act at this time to injure that interest, would be a violation of public faith. If there be an interest that ought to be protected and encouraged beyond any other, it is the interest of the sugar planter. It is the only manufacture in our country that has shown that it can be perfected; and whilst the enterprising and industrious cultivator of that article, after having encountered every difficulty, is succeeding to an extent to answer the consumption of our country for every purpose, as wise legislators we ought to do no act which might, in the remotest degree, impair that interest.

Do gentlemen reflect upon the principle embraced in this bill? If you allow a drawback of the duty upon foreign sugar, refined for exportation, why not, with equal justice, allow a drawback upon foreign wool, hemp, iron, molasses, &c., manufactured in this country for ex-

portation? The principle is precisely the same. During the discussion upon the tariff, at the last session, honorable gentlemen, who now advocate this bill, defended the duty upon foreign wool, &c., upon the ground that it would exclude the foreign articles, and compel the manufacturers of wool, &c., to use the domestic article grown in our own country. It was right to compel the manufacturer to purchase the domestic growth, in preference to the foreign, if you compelled the domestic grower to purchase from the domestic manufacturer. This was fair; but, as relates to sugar, pass this bill, and you do not do it. Let me appeal to the justice of the growers of wool, hemp, &c., and ask them, if a bill was now before Congress, to allow the drawback of the duty upon those foreign articles to the manufacturer of them, for exportation, if they would not oppose it? and, if so, why not extend to our growers of sugar the same justice and protection? I can add nothing, upon this subject, to the judicious and patriotic remarks of the gentleman from Pennsylvania, (Mr. STEVENSON,) who has just taken his seat. They are too full and conclusive to receive any lights from me.

An honorable gentleman from South Carolina (Mr. McDUFFIE) has said, that Louisiana is more protected than any of the States in the Union, and that she requires it less: for that he had been informed the sugar planter there cleared \$800 to every laborer on his plantation, and that labor there cost only twenty cents per day.

[Here Mr. McDUFFIE said his statement was, that, in the cotton-growing States, labor cost only twenty cents per day.]

Mr. BREWER continued. I did not understand the gentleman; I thought he stated it to be the cost in Louisiana. I know not what it may be in the other cotton-growing States, but I assure the gentleman that, in Louisiana, it cannot be procured, if you hire slave labor, for less than 56½ cents per day, and if white labor, for less than \$1, including maintenance, &c. With the finest climate in the Union and the best of lands, the planters of Louisiana have difficulties and expenses, and heavy ones too, to incur, in cultivating the soil. We make cotton and sugar, too, in abundance, and equal to any in the world, but, at the same time, we purchase the provisions and clothes for our laborers from our Western neighbors. This alone subjects us to a heavy diminution for what is made. Our crops of sugar, to be sure, are abundant, and repay the planters for their toil and labor, but not equal to what the gentleman from South Carolina (Mr. McDUFFIE) has represented them. The gentleman who gave him the information exaggerated the picture. All that I can say is, that I most sincerely wish the fact was as he represents. It is not necessary for me to show the incorrectness of that statement; it has been fully done and in a much more able manner than I could do it, by my friend and colleague, (Mr. GURLEY.)

Mr. SERGEANT said he begged leave to make a brief statement of facts in reply to the remarks which had fallen from the gentleman from Georgia yesterday, (Mr. GILMER,) and from his colleague (Mr. STEVENSON) to-day. The former of those gentlemen had contended that the view presented by the friends of the bill, as to the decline of the sugar-refining business, was not a correct one, and the latter had insisted on the same idea, and had carried it even farther than the gentleman from Georgia, insisting, from the returns exhibited by the Treasury, that there had been more done during the year 1827 than for many years previous. It was very true that, if the year 1827 be compared with any one of the last three years since the drawback had been reduced to four cents, that the amount of fine sugar exported would be found to have increased. He acknowledged that, under the discouragement arising from the diminished drawback, the business had nevertheless increased somewhat within the last year. But still its amount was nothing: for, with all the increase, it amounted to no more than \$84,000. But the true method of ascertaining whether the business was declining, would be to take the average of these last three years, while the drawback bore a less proportion to the duty, and compare it with an average of those years in which the drawback had been fully equal to the duty. It would then appear that the business, during one of these periods, had been four or five fold greater than the other. The amount of drawback paid on refined sugar exported, from the year 1795 to the year 1803, was 85,258 dollars, averaging, for each of those years, 9,478 dollars, whereas, an average of the last three years amounted only to 1,733 dollars; but, as at this time the drawback was four cents, and not five, he would add one-fourth to make up for this difference, which would put the average for the last three years at \$2,166 per annum. Here then was the comparative result. While the drawback was equal to the duty, the export average for nine years, was more than \$9,000 a year. But, when the drawback was made less than the duty, the average export was but a little over \$2,000. That is, less than one-fourth of what it was in the former period. If this showed no decline in the business, he was at a loss to conceive what could be called a decline.

When the last law on this subject was enacted, the drawback was fixed at four cents per pound. The refiners were, however, dissatisfied, and contended that, as sugar paid a duty of three cents per pound, two pounds should entitle them to six cents drawback. The refiners of Baltimore, Philadelphia, and other seaports, made application to Congress to raise the drawback from four to six cents. The subject was submitted, by the Committee of Commerce, to the then Secretary of the Treasury, Mr. Crawford, who, after carefully investigating the subject, recommended that five cents should be the amount of drawback. The ground upon

which he rested his suggestion of five cents was, that, from all the intelligence he could collect, on the question submitted to him, he found that the refuse molasses, &c., was worth nearly, if not quite one cent. It is, therefore, upon Mr. Crawford's report, supported by the inquiries of the Committee on Commerce, that the present bill is now before the House for its sanction.

Mr. WILDE said that, having given this subject some reflection, he was inclined to believe that the bill ought not to pass, although he did not consider its operation a matter of so great importance as it appeared to some gentlemen. He understood that the greatest amount of refined sugar exported for some years past, was but \$34,000, on which the drawback was but \$11,000 or \$12,000. It was said, however, that the business had greatly declined, if compared to its condition from 1795 to 1803. Admitting the fact to be as stated, it might nevertheless be doubted whether this decline was chargeable to the decreased proportion of drawback. During that period, one of our principal markets for the article had gone, for the French Republic cut off our means of paying for the sugar imported. Where was now our market for refined sugar? Not in Great Britain, for there it was completely prohibited by enormous duties. The same state of things existed in France. Nor had we the market of Russia: for they preferred using the article as refined by themselves. The decline in the trade was therefore not the effect of any want of drawback, but was mainly owing to other circumstances. As to France, she had succeeded in again obtaining the raw article from her former colony of St. Domingo, and upwards of twenty millions of pounds of the refined article was annually made in that kingdom. The sugar lands in the United States were abundantly sufficient for the supply of our own market, and it was a great error to suppose that the sugar grown on them was essentially unfit for the use of the refiner. The great reason why sugar of domestic growth was not used for refining, was to be found, not in its quality, but in the bounty allowed on the foreign article imported. This completely prevents all competition. The sugar at present used for the process of refining, is the Havana clayed; but Cuba and Louisiana do not differ in climate, nor can any good reason be assigned why the plant should not thrive as well in the one as in the other of these countries. The clayed sugar of the Havana undergoes a process which is not employed at all either in the British West Indies, or in the United States. It is not pursued in the British islands, because sugar prepared in that manner is obliged to pay a very high duty when carried to England. It was formerly used in the French West India islands, but the practice has declined. The sugar is said to be clayed, because it is drawn into coolers, and then mixed with clay, the subsiding of which partially clarifies the sugar with which it is

DECEMBER, 1828.]

*Occupation of the Oregon River.*

[H. OF R.]

mingled, and of course leaves less to be done by the refiners who make it into loaf sugar. Mr. W. said that it appeared to him that the benefit of drawback on refined sugar had been considerably increased by the tariff law of last session. [In support of this view, he quoted various statistical statements from the report made by the Committee of Commerce last year.]

Mr. MALLARY, of Vermont, said that he believed that the proposed measure would be beneficial in its results, and whether it was considered as a tariff measure or not, was to him a matter of entire indifference. What were the objections which had been brought against it? There was one which had been urged with great vehemence by the gentleman from Louisiana, (Mr. BREXET,) who insisted that the bill was going to injure the sugar-growing interests. Was this objection well founded? If he thought so, he should certainly be opposed to the bill. But it did seem to him perfectly demonstrable, that the effect of this measure could not possibly injure, but, on the contrary, would greatly benefit that interest. Let gentlemen look at the state of facts. The domestic and the foreign sugar meet in our market, and nowhere else. The domestic article does not supply that market, and the deficiency is made up by the foreign. If, indeed, there was a foreign market for our domestic sugar, then the effect of the bill might be injurious. But establishing the fact that our own sugars had no other but the home market, and was not produced in sufficient quantity to supply even that, it was manifest we must look abroad for the supply of our factories; and what evil effect could result from re-exporting the surplus which they did not consume? Supposing, for the sake of illustration, that our laws allowed no drawback at all, then the American merchant, when he imported foreign sugar, would have to be careful lest he overstocked the American market. But, cautious as he might be, it must nevertheless happen, in the unavoidable fluctuations of business, that there would sometimes be a surplus beyond the demand; and as there was no outlet allowed by drawback, and as the foreign market would not bear the duty, that surplus must be retained in the country, and its inevitable effect would be to depress the price of the article. Now Mr. M. held it to be good policy to guard against such fluctuations.

Mr. CAMBRELENG (in reply to Mr. WILDE) said, that if that gentleman would examine once more the statements he had read to the House, he would perceive that the drawback was calculated at five and a quarter cents; if this difference was deducted, he would find that there was still a surplus of \$2,600 in favor of the Treasury. The bill proposed a drawback of only five cents. Mr. C. said that when he introduced the bill he had no idea it would encounter any opposition whatever; he had not been able to conceive any possible grounds

on which it could be objected to. As to the fact just stated by the gentleman from Louisiana, if the person referred to had erected a large establishment in New Orleans for refining sugar, he would advise him to use for that purpose the white sugar of Havana, as he would find his establishment, in that case, a far more profitable concern.

Mr. STEVENSON, of Pennsylvania, explained, in reply to Mr. SERGEANT, and insisted that what he had stated as to the increase of the sugar-refining business, within the last three years, was strictly true. The export of refined sugar had risen in those years, and under the reduced drawback, from 50,000 lbs. to 230,000 lbs. It might be true that the amount in money appeared greater in some former years, but then the drawback was at a higher rate.

The bill was passed without a division.

TUESDAY, December 23.

*Occupation of the Oregon River.*

On motion of Mr. FLOYD, of Virginia, the House went into Committee of the Whole on the state of the Union, and proceeded to the consideration of a bill to authorize the occupation of the Oregon River.

Mr. FLOYD, Chairman of the Committee on the Oregon Territory, then addressed the committee in explanation and support of the objects of the bill, in a speech which occupied the committee till three o'clock. Mr. F. commenced with the principle, that the best way to settle a new country was to leave it to the enterprise of private individuals, merely extending to them the arm of national protection. After adverting to the manner in which the population of the Atlantic States had advanced to the interior, he referred to a former report made by Mr. Baylies, of Massachusetts, when chairman of the same committee, to which gentleman he paid a just compliment on that subject. He next called the attention of the committee to certain ordinances of the British Government, extending the jurisdiction of their courts west of the bounds of Canada; therein including the citizens of the United States, over whom the British Government had no legitimate authority. After briefly referring to a claim recently set up by some British lady, to lands lying immediately south of the boundary of the Russian possessions on the north-west coast, he descanted for some time on the value of such a port as was furnished by the mouth of the Oregon River; dwelt on the great value of our commercial interests in the Pacific Ocean, and the importance of immediately taking possession of a post so important to our trade. He next proceeded to show the amount of that trade in its three branches, of the north-western, the South Sea, and the Canton trade. He reprobated the policy of prohibiting the exportation of specie to Canton, and referred to the experience of England on that subject. He

presented a detailed statistical statement of the results of our commerce in those seas. He then entered on the general subject of the fur trade, now principally in the hands of the British, and insisted on the evidence which goes to show the high value set upon it by Great Britain. He dwelt upon its importance to the United States, notwithstanding the many and great disadvantages under which it was conducted. He next referred to the extent of our whale fishery, and the amount of naval force which its due protection would require to be constantly kept up in the Pacific Ocean, and thence inferred the value of a harbor at the mouth of the Oregon, for the watering and refitting of our ships of war. Mr. F. then proceeded to remark on the value of such a station in case of future wars with Great Britain, as a point from which to annoy her East India trade. After describing the nature of the coast, the physical advantages of the harbor, the mildness of the climate, and the fertility of the soil, he expatiated on the excellence of such a spot for the purposes of colonization, and the ease with which every interposing difficulty would be overcome by the hardy enterprise of the citizens of the West. All they needed was an adequate military force for their protection, the extinguishment of the Indian title, and liberty from their own Government to prosecute schemes of individual emolument; and, on this part of the subject, he adverted to a petition now before Congress, of a company of persons in New Orleans, offering to commence a colony at their own expense; on the leader of which company, a former school-fellow of his own, he bestowed the highest praise. After referring for illustration to the liberality of the Government of Mexico, in offering liberal terms for the settlement of their unoccupied territory, Mr. F. concluded his speech by showing, from the estimates of the Navy Department, that the sum of fifty thousand dollars, with which he had proposed to fill the blank in the appropriating clause of the present bill, was amply sufficient to cover all the expenses of the undertaking.

Mr. GURLEY made a short speech in further explanation of the views and purposes of the company who had memorialized Congress for permission to engage in the settlement of this territory, and concluded it by moving an amendment which went to secure to them certain privileges, together with the grant of a tract of land forty miles square.

Mr. EVERETT did not directly oppose either the bill or amendment, but, with regard to the latter, stated that, in that part of the country from which he came, there was an association of three thousand individuals, respectable farmers and industrious artisans, who stood ready to embark in this enterprise, as soon as the permission and protection of the Government should be secured to them; and expressed a doubt whether an exclusive grant of forty miles square to the Louisiana company would have

a just and proper bearing upon other settlers equally enterprising and meritorious. Mr. E. animadverted on that clause of the bill which went to fix the northern boundary of the territory at 54° 18' north, and reminded the gentleman from Virginia (Mr. FLOYD) that, in a late negotiation with the British Government, we had offered to accept of 49° north, as the limit of our claims, which offer had been rejected.

Mr. BUCHANAN was not unfriendly to the bill, but thought its language ought to be studied with great care, lest the nation should inadvertently compromise its own rights. He disliked that feature in the amendment which proposed a monopoly to one company of forty miles square; and, believing that the subject required more mature consideration, moved that the committee rise, and it rose accordingly.

WEDNESDAY, December 24.

*Occupation of the Oregon River.*

The House went into Committee of the Whole on the bill to authorize the occupation of the Oregon River.

The amendment yesterday offered by Mr. GURLEY was modified by striking out that part of it which provided that the Government should extinguish the Indian title to a tract of land forty miles square, in favor of John M. Bradford and his associates, (a company of adventurers proposing to set out from New Orleans;) and also by inserting the names of Paul and J. Kelly, and his associates, (a similar company from Massachusetts,) and Albert Town and his associates, (a company from Ohio,) as entitled to the permission granted by the bill for the erection of a fort on certain conditions.

Mr. WOOD thought the bill, as modified by the amendment, exceptionable in its form, as attempting to reconcile two incompatible schemes for the settlement of the country on the Oregon; one by the Government and the other by private individuals. One or other of these plans ought to be fixed on, and then the whole bill put in a form to provide for that plan.

Mr. GURLEY defended his amendment at some length, contending that it granted to these settlers nothing more than might reasonably be asked by pioneers forsaking the privileges of improved society and going into a wilderness.

Mr. REED rejected the idea of the proposed settlement being required by the interests of the whale fishery in the Pacific. He thought the harbor in the island of St. Juan de Huga far preferable to the mouth of the Oregon, and if a sea fort was to be erected, it ought to be built there.

Mr. FLOYD, without denying the merits of the harbor mentioned by Mr. REED, contended for the importance and value of that at the mouth of the Oregon.

On his motion, the 8d section of Mr. GURLEY's amendment, which contained the ap-



DECEMBER, 1828.]

*Occupation of the Oregon River.*

[H. OF R.]

proval by Congress of the compact of the Louisiana company, was stricken out.

Mr. TAYLOR opposed the amendment generally, as granting nothing of any value, while it had the aspect of giving exclusive privileges to one class of settlers over other citizens of the United States.

Mr. BATES, of Missouri, after some statement of facts, and a few general observations on the importance of the bill, and the necessity of having its provisions fully matured from a view of all the facts bearing on the subject, suggested that the present was not a suitable moment to go into a consideration of a subject so extensive, and moved that the committee rise.

MONDAY, December 29.

*Occupation of the Oregon River.*

The House went into Committee of the Whole on the state of the Union, and took up the bill for the occupation of the Oregon River.

Mr. BATES, of Missouri, said that as he had moved the rising of the committee, when the subject of the bill was last under consideration, it would, no doubt, be expected that he wished to deliver his sentiments on the question. He did wish to give utterance to his opinion on the bill, though he was not sufficiently versed in the forms of the House to know, if the amendment offered on Wednesday by the gentleman from Kentucky, (Mr. LYON,) might be understood as leading to a consideration of the general merits of the question. He apprehended, however, that as that amendment was proposed as a substitute for, or a modification of, the previous amendment, it would not be out of order for him to take a relative view of the case in some of its principal bearings; and, under that impression, he should proceed as if the whole subject were before the committee, and open to discussion. If he understood rightly, the proposition of the gentleman from Louisiana (Mr. GURLEY) went to grant, to the persons enumerated in his amendment, peculiar and exclusive rights, different in their nature and degree from those granted to other citizens of the United States, who might be disposed to migrate to the Oregon country. He protested against the adoption of any such exclusive system; for he would ask the House if it did not actually amount to the establishment, by Congress, of a proprietary government, similar to that which existed in some of the States of the Union prior to the Revolution? It went even further—it went, in point of fact, to sanction the policy of foreign colonization, as must be apparent to all who would take the trouble to investigate the matter. It had been maintained by many of their greatest and wisest men, that one paramount excellence of their unrivalled constitution, was, that it could be extended to any limits, and embrace any number of independent States, within the great scheme of social polity which it laid down. Now he fully sub-

scribed to that opinion, provided there were one continuous population connecting the various States with each other; provided there were no great break intervening between the projected new territories and those already established; but, at the most distant extremity of the continent, it must be evident that the settlers and the country itself, instead of being under the superintendence and guardianship of the General Government, would be entirely dependent upon the will of the individuals for whom such great and exclusive powers were asked. There was another very solid ground of objection to the proposed measure, which should not be lost sight of; the wild, the lawless, and the desperate part of the community—those whom society cast from her—would, allured by the prospect of impunity for crime, and the hope of advancement where they were unknown, seek a refuge exempt from all salutary control, in the bosom of that wilderness, to the exclusion of peaceable, regular, and orderly settlers. He strenuously opposed the system of what he would term a half incorporation—the giving to individuals, or associations of individuals, vested rights in large districts of lands, upon which, at any future period, Congress would be debarred from laying their hands; and all this, too, without any correlative obligation on the part of those to whom such munificent gifts were proposed to be made. He felt it his duty, also, to oppose equally the proposition which went to grant permission to the settlers to purchase lands of the Indians, and acquire, by that means, the right over the soil, &c. Such a course would be an overturning of the system which had been adopted and pursued, with respect to Indian lands, for more than forty years; it had always been left to the Federal Government to extinguish Indian titles, and the wisdom of such a policy was obvious, not only from the experience of that long period, but also from the very nature of the thing itself. He did not profess a deep knowledge of the laws of nations, and he therefore was not prepared to say in what light these associations were to be viewed; certainly it appeared to him, either as colonists, (and from their distance, and the natural obstacles to an intercourse with them, he would say *foreign* colonists,) or as a nation in miniature. But what was to be done after these settlers had obtained possession of the land, and erected their fort? Whether to defend themselves against the savages, or against a Russian or an English fleet, he could not say. Why, the President of the United States would be required to supply guns, arms, and munitions of war, and to commission the officers of their militia! Whereas the United States had no militia, except, peradventure, a few within the District of Columbia; all the other militia in the Union were local, and appertained to their respective States. He objected to the bill on that ground also. In direct connection with that scheme of proprietary government, came the consideration of the establishment of a ter-



ritory under the protecting arm of the Government. Since the first session of the north-west territory by Virginia, the principle had been laid down, in the establishment of new territories, formed, as they all were, with a heterogeneous population, collected from all parts of the world, that the term necessary for them to remain before their admission into the Union as States, was a period of probation, to teach them to govern themselves, previous to a participating in the blessings of the Union. The practice had been invariably in strict conformity with the principle. Now, what would be the consequence, supposing the bill to pass, and thereby to give a social existence to that country? They had, from the Missouri to the salt water of the ocean, thirteen or fourteen hundred miles; and from the mouth of the Missouri to the head of navigation, say two thousand five hundred miles. There was then the rugged and almost impassable belt of the Rocky Mountains; and nineteen-twentieths of the space between the Missouri and the Pacific Ocean, beyond the culturable prairies, which were not above two or three hundred miles, was a waste and sterile tract, no better than the desert of Zahara, the traversing of which, even during the best seasons, was attended with the extreme of difficulty and danger. After describing the tedious, laborious, and hazardous mode of navigating the river Oregon, which was not, he contended, navigable for more than three hundred miles, he observed that he had received a letter from Mr. Wilson P. Hunt, a gentleman who was well known to many of the members of that House, and who was perhaps as well acquainted with that country as any man in the Union, which gave a frightful account of the horrors attending his crossing the Rocky Mountains. Mr. Hunt and his companions suffered, from starvation, as much, perhaps, as human nature could endure. He related one instance, in particular, wherein, after famishing for several days, he had suddenly fallen in with an Indian encampment, and perceiving a half-starved horse wandering near, directed one of his men to kill it; he had afterwards purchased the slaughtered animal from the Indians, for the extortionate price of a handful of bread; and finally, in continuing his route across the mountains, had been compelled to feed upon the hide, which his party carried with them, cut up into thongs. Such (Mr. B. observed) were the hardships always to be encountered by those who crossed the Rocky Mountains from the source of the Missouri. Farther to the south, towards the Colorado, or near the Bonaventura, they could be crossed with comparatively little difficulty; in one place, he had been given to understand, there was to be met with merely a single mountain. The country west of the mountains merited, he must remark, more of their attention than his former allusions to its barrenness could possibly call forth. The principal part, in the vicinity of the mountains, was composed of

rocky and stony ridges, interspersed occasionally with spots of ground, giving life to nothing but the spruce, the hemlock, and other trees of a similar description. The soil, where there was any, in the lower ground, was formed merely of the rotten pine leaves, and even that was swept away by the inundation which periodically covered the country on the banks of the river. To-day, the extremity of drought would prevail; to-morrow, all, except the hills, would be submerged in the floods.

He then proceeded to speak of the insurmountable difficulties that attend the navigation of the Oregon River, as it opened into the ocean; of the disadvantages of its harbor; and of the danger incurred by vessels from the high, rocky, and iron-bound coast immediately contiguous to it. It was visited regularly by the monsoons; and most vessels passed by, for fear of being dashed to pieces in making the harbor, or being wind-bound when there. They preferred going many degrees farther to take in wood and fish, the only supplies the country produced. The very names described the place better than any words of his could. The North Cape of the harbor had been called Cape Disappointment by an English vessel, which, for a long time, attempted to get in, but in vain; and it was never afterwards discovered till the year 1798, when Captain Gray, of Boston, visited it, and entered the harbor. With respect to what had been said on a former day, by the gentleman from Virginia, (Mr. FLOYD,) as to the fertility of the country, the House must pardon him if he troubled them with a short statement of facts from the most indubitable authority. The party sent out to that place by that most respectable merchant, Mr. Astor, of New York, and to which party the gentleman, Mr. Hunt, whose letter he had occasion to cite, was attached, had tried to raise articles necessary for their subsistence and comfort; but, after three years, could only succeed in growing radishes, turnips, and a few other esculents, of a like description. So much for the fertility of the soil, and the ample returns which it made for the labor of the agriculturist. Mr. B. then proceeded to draw a picture of the miserable condition of the wretched natives of the country. There was no game in the country, with the exception of, occasionally, an elk or a bear; the Indians could not depend upon the chase for subsistence; they had not even shoes in which to pursue it. They lived, he might say, upon the water, upon the fish which they caught in the river, and the roots and berries which they obtained in the woods. Their huts were in the ground, and their condition, altogether, was distressing and miserable beyond all conception. It was his firm belief that, if the settlement were to be made, and agriculture attempted on any scale, large or small, and with any means, they would not remain there two years; they could not endure the incessant rains of four months' duration; they would quit the country for California, or for that most de-

DECEMBER, 1828.]

*Occupation of the Oregon River.*

[H. OF R.]

lightful of all climates of the South, the Sandwich Islands, which would be but fifteen days' sail from there. In that manner would their exertions in the settlement be of no value to themselves, and their energies would be forever lost to their country. Suppose, (said Mr. B.,) for the sake of argument, the objects of the bill fully accomplished—suppose the paternal care of the Government had fostered the infant settlement into a vigorous maturity—could it be supposed that a brotherhood of affection, a community of feeling and of interests, would prevail between that distant and solitary member of the family, and those which remained firm and united together at home? Look at that territory, with habits, localities, and associations, altogether different from the rest of the Union. Look at its neighbors: on the south, the new republics of South America; on the north, Russia; the vast ocean in front; separated from those to whom it should be bound by the closest political ties, by an almost interminable desert. Look at these things, and then say whether that territory could enjoy those blessings which the constitution dispensed to every member of the American Union. The habits of the territory would be acquired by an intercourse with those republics of the South. Those republics, which were based upon an ancient if not upon a solid foundation, would engross its commerce, and, in all probability, secure its alliance; and though he would not venture to predict that such would be the case, yet he feared that it would ultimately be the occasion of setting a formidable example of a disruption of the Union. He should not digress on points of honor, with respect to permitting either Russia or England to interfere in any arrangements with respect to the settlement or other disposition of any part of the country in question. Such matters must, of course, operate on the minds of gentlemen, according to their different individual feelings. He must confess, that, with him, they weighed but little. A question had been raised of rather more importance; that was, how would the proposed bill operate on commerce? And that question he would endeavor to answer in a few words. The British Northwest and Hudson Bay companies had long been actively and indefatigably engaged in pursuing the fur trade in the extensive regions of the West. The darkest recesses of the mountains were annually explored by their numerous agents; and the natural consequence of the unremitting pursuit of the game was, that it was, and long has been, rapidly thinning. He had been credibly informed, that the beaver trade, in particular, was diminishing daily. But little property was now made in it, except incidentally, by great good fortune, in stumbling on particular spots which had not previously been visited by the hunters; and these, as every person at all conversant with the business must know, were "few and far between." He himself, though residing at a place which brought him immedi-

ately in contact with persons engaged in that pursuit, knew but one person who had made a fortune by it. He alluded to Gen. Ashley, of St. Louis; and even in that case, it was to be attributed solely to the superior enterprise and good fortune of that gentleman, and the sagacity which led him to take the best and least frequented routes. Gen. Ashley's party consists of about one hundred men, and from three to five hundred horses; he shapes his course three or four degrees south of the line usually followed, crosses the belt of mountains at a place where he meets but one or two inconsiderable mountains to oppose his progress, and, in three or four months, finds himself on the Salt Lake, west of the Rocky Mountains. He (Mr. BATES) then held in his hand a letter from that gentleman, which would give some idea of the research and enterprise necessary to render such pursuits successful and profitable.

But to resume his argument as to the barren and inhospitable face of the country generally. It was precisely of the same description at the source of the Columbia River. He had received a letter on the subject from a respectable gentleman who knew the country well; the authenticity of the information which it contained was indisputable, and, with their permission, he would read an extract from it. The following was the passage to which he begged to call their attention:

"The navigation of Columbia River, from the Great Falls, with the exception of two portages, is, on the whole, good; but the country, by land, for one hundred and fifty or two hundred miles, is impassable for mules or horses. It is annually inundated by the melting of the snows from the mountains, and is entirely barren. There is no game nor vegetables, with the exception of hemlock, spruce, and a little moss. On the whole, nothing about the river is desirable, but its navigation and the harbor at its mouth."

Such (observed Mr. B.) were the views entertained of it by an eye witness, fully competent, by experience and knowledge, to form a correct judgment in such matters. He further thought, that, if a settlement was determined upon, the best site for it was about one hundred miles south of the Columbia River. Mr. B. repeated that such information was of a nature to be implicitly relied upon. It was sought after and obtained by the gentleman referred to, with a view to actual profit; it was not merely theoretical or speculative, but practical, and intended to be acted upon at a future period.

When Lewis and Clarke went on their celebrated exploring expedition, they labored, of course, under every possible disadvantage; passing through an unknown country, where the foot of a white man had never before trod; with no guide but conjecture; exposed to the attacks of savage and hostile tribes; and aided only by men, who with a few exceptions, were no better qualified for the arduous service in which they were engaged, than so many sol-

diers of the United States army would be. Those distinguished travellers gave a most deplorable account of the whole country; an account fully concurring with what he had been saying upon the subject. Lewis and Clarke say that the only good land they saw was at a place they called the Wapattoo Valley, and that it was enough to sustain about forty thousand agriculturists! The whole plan was wild and impracticable. They might, indeed, build a fort for the purpose of self-defence, but those within it would have nothing to defend but themselves. The bill proposed the small sum of fifty thousand dollars for that purpose; now, that sum would not purchase the bark from off the logs necessary to construct it, and pay for the transportation of that bark to Missouri. Fifty men, it was true, might build the fort; but three or four hundred would be required for it: for less than that number could not defend it against the attack of two Russian frigates. In the year 1819, it would, no doubt, be recollected, that an expedition was sent to build a fort on Yellowstone River. Men were taken out, he believed, at an expense of near five hundred dollars per man; and that undertaking, which resulted in a complete failure, cost the nation, he understood, nearly half a million of dollars! And yet it was seriously proposed to build a fort on the coast of the Pacific Ocean, at the very western edge of the American continent, for fifty thousand dollars, only one-tenth part of the sum thrown away upon the other. If it were considered necessary to fortify the mouth of Columbia River, it would be necessary to enlist a peculiar kind of men for the service there. He meant the boatmen on the rivers and lakes; men who would never think of asking for salt or for bread, when a thousand miles in the depth of the wilderness, and who conceived themselves fortunate when they could feast on a piece of hard venison, or a fat dog.

They must not, he said, expect bread in their rations; for every pound of bread stuff in their settlement must come from California or even further south. He wished it to be observed also, that the little trade that existed there, was not on the coast, but in the upper part of the country, among the spurs and branches of the Rocky Mountains, where, and where alone, the furs were found. There was still another objection, which, in his opinion, ought to have great local weight. The trade in furs, in particular of the sea furs, was principally carried on with China and the East Indies. A considerable portion of the land furs found a market in Europe. Now, if a place of deposit and shipment were established in the mouth of the Columbia River, the whole of the furs from the Rocky Mountains would travel in that direction; and the long and fructifying stream of commerce which flowed through the United States, leaving such a rich alluvium behind it, would be diverted into another and an opposite channel. He had no hesitation in saying, that

not a single beaver skin would be brought from the Rocky Mountains to the Mississippi. Reverting to his former argument, concerning the difficulty, nay, almost the impracticability of the communication between the Missouri and the coast of the Pacific, across the Rocky Mountains, he observed that even Boston was much nearer the mouth of the Columbia River, in point of facility of commercial intercourse, either by doubling Cape Horn, or by crossing the Isthmus, provided the permission of the Spanish republics could be obtained for the better course. It was not nearer, certainly, for the transmission, if he might so call it, of men; but a man, with a stout heart, and a good rifle on his shoulder, might go to any place where there was animated nature, and find a subsistence.

There was at that present time a gentleman in the city, whose personal knowledge on the subject was great, and who agreed with him (Mr. BATES) in almost all his views of the question. He was particularly well acquainted with the seaboard of that country, and had emphatically described to him the horrors of that barren desert, and the disastrous effect of those heavy and continued rains to which he had before alluded, as beyond the possible endurance of the settlers. That gentleman had remarked, that the winds, loaded with the accumulated vapors of 20,000 miles of ocean, drove the clouds against the rocky steepes of the coast; and he had often, from the sea, seen them, through the vista of the river, bursting, when past the first barrier of mountains, falling in torrents, and overflowing the country. After some farther observations with respect to the difference of climate of the American and Asiatic coasts in the same parallel of latitude, 57°. Mr. B. repeated his protest against the establishment of a foreign colony: for such, he contended, would be the proposed settlement. The very country itself, in which it was to be located, was a disputed country; and though he fully agreed with the gentleman from Virginia (Mr. FLOYD) as to the justice of the United States claims to it, yet the fact was, that the right to it was a subject of dispute between America and the British Government. Great Britain, it was well known, never conceded a single point which she could possibly maintain; and would gentlemen, he must ask, risk the chance of a long and sanguinary war, for the sake of making an experiment on the hemlock forests of the Columbia coasts? In private life, he knew, that, if a man desired to vindicate his own rights, it was sometimes necessary to cavil about the ninth part of a hair; and, perhaps, the case might be the same with respect to nations: however that might be, he could not repress the utterance of his solemn wish, that the base of the Rocky Mountains were an ocean bounding the United States, instead of the vast wilderness which extended beyond them.

To speak of the profit derived from these barren regions. They received furs to the

DECEMBER, 1828.]

Occupation of the Oregon River.

[H. OF R.]

amount of two or three hundred thousand dollars annually; that trade, to be sure, might give life and activity to a little town of five or six thousand inhabitants, St. Louis, which was the principal seat of it. But, was a trade of that confined extent worth incurring the heavy expenses attending a settlement, even if no other part of the question were taken into consideration? Was it worth paying for? Was it worth fighting for? Was it, in fact, worth caring for? [Mr. B. continued.] If they wished to proceed with prudence and circumspection, they would send out a party of exploration. A hundred good riflemen might traverse the continent from the Russian settlements, in latitude 57° 40', to California. No arms could compete with theirs; no savage valor, however desperate, could withstand their disciplined bravery. Let them collect a mass of information on the country, and the available advantages it held forth to settlers; and let Congress afterwards arrange, digest, and act upon that information. He would answer for it that such a course of proceeding would produce more practical good effects, and cost much less, than the premature erection of a fort, and establishment of a territorial government. The very name of the place appeared to him expressive of its poverty and sterility. He knew but little of the Spanish language, but had been informed, and thought the conjecture probable, that the river derives its name from an herb, resembling pennyroyal, or perhaps approaching as nearly hyssop, growing near the coast, and called in Spanish *oregano*. From this fact it was rational to suppose that it had been visited by the Spaniards at an early period of their adventurous career of discovery, and abandoned as not worth the trouble of settling.

He thanked the committee for their attention; and, in concluding, begged them to pause before sanctioning an expenditure, for a purpose perhaps dangerous, certainly useless.

Mr. POLK rose, he said, chiefly for the purpose of calling the attention of the committee to the existing treaties between the United States and Great Britain; and particularly to the convention of the 20th of October, 1818, and of the 6th of August, 1827; and if, on examination of them, it shall be found that we cannot pass this bill, either in its original shape, or according to the amendments proposed, then there is an end to this discussion. Gentlemen who had participated in this debate had confined themselves to the expediency of the measure, and have had no reference to the present state of our negotiations in reference to the preliminary question of title to the country.

The third article of the convention of the 30th of October, 1818, contains this agreement between the two countries: "It is agreed that any country that may be claimed by either party, on the northwest coast of America, westward of the Stony Mountains, shall, together with its harbors, bays, and creeks, and the nav-

igation of all rivers within the same, be free and open for the term of ten years, from the date of the signature of the present convention, to the vessels, citizens, and subjects, of the two powers." The question is not now whether it was wise to make this treaty, but, having made it, what is its spirit and meaning?

The convention of August 6th, 1827, extends and continues in force, for an indefinite period of time after the 20th of October, 1828, the provisions of the third article of the convention of 1818, but contains this additional article: "It shall be competent, however, for either of the contracting parties, in case either should think fit, at any time after the 20th of October, 1828, on giving due notice of twelve months to the other contracting party, to annul and abrogate this convention, and it shall in such case be entirely annulled and abrogated after the expiration of the said term of notice."

These are the stipulations of the existing treaties between this Government and that of Great Britain. Whilst they continue in force, they are declared by the constitution to be the supreme law of the land. Now we have not given the notice of twelve months to annul or abrogate them, and until we do, or receive such notice from them, they are in full force, and are obligatory upon us. Did this bill or the amendment offered to it, violate their provisions? The bill proposed to establish a territorial Government over the whole country between the Rocky Mountains and the Pacific Ocean; to occupy it with a military force; to erect a fort; to erect a port of entry; and to grant donations of lands to emigrants. Now, sir, (said he,) can we take *exclusive* possession of any portion of this territory; occupy it with a military force; establish a territorial Government in it; and create a port of entry, thereby excluding all others, unless subject to our revenue laws, consistently with the provisions of these treaties, by which the parties have agreed that the country shall be "free and open" "to the vessels, citizens, and subjects of the two powers," until annulled by notice given? Can we do it without first giving the twelve months' notice required? Admit, if you will, that, upon the face of the treaties, it may be a matter of some doubt what their true construction is: we are left in no doubt what is the construction put upon them by the British Government. They hold that neither party has the right to take exclusive possession of any portion of the country; that the right to do so is suspended by mutual consent, during their continuance in force, by the terms of these treaties; that both parties have a right, during their continuance in force, to a common occupancy of the country, for the purposes of hunting and traffic with the natives. That the subjects of Great Britain and the citizens of the United States have an equal right, until these treaties are abrogated or annulled, to hunt in the country as they have heretofore done; to take furs and traffic with the natives in the in-

terior; to take fish in the neighboring seas, bays, and harbors, and export them for market to China, or any other part of the world they might choose. They did not claim themselves the exclusive right to occupy any portion of this vast, unexplored region, nor did they deny to us the right of common occupancy with them, for the purposes he had stated. Their Hudson's Bay Company now hunt in the country and trade with the natives. All American citizens who choose do the same. And at this moment, all American citizens, all associations and companies of individuals, had the right by the terms of these treaties, without the aid of Congress, to go into any portion of the country for the purpose of hunting or traffic. They had the right, both by land and sea, without our aid, to have free ingress and egress to and from the country. Such of our adventurous citizens as are disposed to penetrate into the unexplored wilds west of the Rocky Mountains, have the right to do so. Great Britain has not, as yet, established any military posts, and has avowed her intention not to do so unless we do. Her hunting companies may have private defences and temporary fortifications.

Mr. EVERETT observed, that he did not rise to enter at length into the present debate, in which he had not intended and was not prepared to take an active part. His attention had been turned to the subject by the circumstance, that he had been called on by a constituent, (at the head of an association which wished to emigrate to the region in question,) to submit a memorial to Congress, at the last session, which in his own necessary absence, Mr. E. stated, he had done, through the courtesy of the gentleman from Virginia, (Mr. FLOYD,) of whose meritorious efforts, in bringing forward this subject, the committee were the witnesses. His thoughts had been in this way directed to the subject, and he confessed he had formed a very favorable impression of the general nature of the proposed measure; although his views were not sufficiently matured to authorize him to obtrude them, at a great length, on the House. He would, however, make a few remarks, in reply to the gentleman from Tennessee, who had just taken his seat, (Mr. POLK,) on the bearings of the proposed measure upon our relations with Great Britain.

Sir, (said Mr. E.,) like the gentleman from Tennessee, I am fully persuaded of the validity of our national title to the territory in question. That point has been argued with an ability which leaves nothing to be wished, by our ministers, Mr. Rush and Mr. Gallatin, in their negotiations with Great Britain, and by the present Secretary of State and his predecessor, in their instructions on this subject. I agree with the gentleman from Tennessee, that the right is ours, by every title by which a right to an unsettled region can accrue to any Government. What then is the state of the question, on this admission? It is this: that here is a region, extending more than twelve degrees of

latitude from south to north, and more than a thousand miles from east to west, to which we have a clear title, and on the possession of which we may not enter. It is not merely an extensive region, but, as I have no doubt, notwithstanding what has been so forcibly stated by the gentleman from Missouri, (Mr. BATES,) a fertile one. If there are rough and barren portions, as there naturally must be, in so extensive a tract of country, bounded by one lofty ridge of mountains, and traversed by another, parallel to it; there can be no doubt (even if we had not, as we have, abundant testimony of the fact,) that other portions—the bank of the rivers, some of its numerous islands, and the valley between the two ranges of hills, are fertile. In that part of the globe, and in that vicinity to the ocean, if the region be as sterile as it has been just described, it is without example in geography. But documents, officially in possession of the House, (I allude particularly to the two able reports of a colleague in the nineteenth Congress, Mr. BAYLIES, of Massachusetts,) contain abundant and positive testimony that a portion of this region is a perfect garden. The importance of its position I will not dwell upon. It lies in the rear of our entire western settlements, and it contains the only ports we can ever have on the great Pacific Ocean; the only ports in which our immensely valuable trade on that ocean could ever seek the protection of a national fortress, in time of war. Such is the region to which it is agreed, on all sides of the House, we have a clear right, and on the enjoyment of which right a rival power says we must not enter: not that this power claims it as hers, but on the ground that it is a vacant region, of which the jurisdiction belongs to no power. This certainly is an important question, and ought to be settled. If the territory is ours, let us have the use of it; if it is not ours, let us give up our claim to it; and if it be doubtful, let us ascertain, as soon as possible, whether it is ours or not.

A convention was framed between the two Governments, in 1818, of which one article provided for the joint occupancy of this region, and that article was renewed at a separate convention, in the course of the past year, to be terminated by either party on twelve months' notice to the other. The gentleman from Tennessee (Mr. POLK) says the provisions of this bill are inconsistent with the stipulations of the convention.

There are two main points in the bill—the erection of a military post, and the establishment of a civil jurisdiction. With respect to the first, it certainly does not violate the convention. It was recommended by Mr. Monroe, in 1822, and by the present Chief Magistrate, in December, 1825, under whose instructions this convention had been negotiated. The British have taken military possession of the country. If I am not misinformed, they have an unbroken chain of posts from the mouth of the Columbia to Upper Canada. Mr. Gallatin,

DECEMBER, 1828.]

Occupation of the Oregon River.

[H. OF R.]

in his letter of 2d December, 1826, to the Secretary of State, says: "I understood it to be the opinion of the British plenipotentiaries, that there could be no objection to the establishment of military posts, or to a jurisdiction conferred, by each power, to its own citizens or subjects." Again, in his letter of 20th December, he says: "The establishment of military posts, provided they do not command exclusively the Columbia, is not objected to." The first point of the bill does not, therefore, seem attended with essential difficulty.

The second point, that of jurisdiction, is unquestionably more delicate. I would certainly be among the last to propose the infraction of the convention, or to recommend a measure that would involve a hazard, or hold out a menace of war in any case, unless the interest or the honor of the country imperiously demanded it. In the present case, I have no other wish than to protect our citizens, who now resort to this region in pursuit of their lawful industry, and to go *pari passu* with Great Britain in asserting a right to the country. The British have their posts there; let us have ours to protect our citizens from the violence to which they are now exposed. The British, by an act of Parliament, of 1821, have extended their civil and criminal jurisdiction to all the parts of America, not belonging to other powers, and not within the civil jurisdiction of any of the United States. What shall we do to keep pace with this measure? The British Government has objected to the establishment of a territorial government, and yet Mr. Gallatin, in one of his letters, observes, that "it was suggested (by him) and seemed to be acquiesced in, that the difficulty might be obviated, provided the erection of a new territory was not confined exclusively to the territory west of the mountains; that it should be defined as embracing all the possessions of the United States west of a line that should be at some distance from land east of the Stony Mountains."

The truth is, something should be done to keep pace with the British settlements, and to protect our hunters and trappers. The territory is now overrun with the servants of the Hudson's Bay Company. Under a nominal joint occupancy, they monopolize it. They are there in great numbers: armed, of course; supported by a chain of forts; and whenever the American trappers, comparatively few in number, and unsupported by any forts, make their appearance they are driven off, and if they make resistance, are killed. I have been, within a few days, informed by a gentleman, whose name, if I felt at liberty to give it, would command the respect of every member of the committee, that among the latest accounts from this region are, that eight Americans have been shot by the British hunters. If it has happened in the skirmish that a British hunter has been shot by an American, (of which I have no information,) the act of Parliament of 1821 would warrant the British hunting parties to arrest the American,

and carry him for his trial to the seat of justice in Upper Canada. This act of 1821, while it excepts Americans from the operation of the monopoly of the trade granted to British subjects, does not except them from the civil and criminal jurisdiction conferred by that act on the British courts.

Will, then, those courts protect our citizens? Ought we to leave our citizens to their protection? Ought we to forbid our citizens from going into the territory? And this, while British subjects are protected in a free range? I am, sir, for allowing our citizens to go, and for protecting them while they are there: and though there must be some difficulties and anomalies, in the arrangements to be made, in a region so circumstanced, it cannot be that the convention was intended to debar this Government from protecting its citizens, in those privileges stipulated by it, and now monopolized by the hunters of the Hudson's Bay Company.

Our negotiator strenuously refused to agree to any express stipulation, which should prohibit us from taking possession of the territory, now in reality possessed, and exclusively possessed, by a powerful chartered British company. But if it should appear, that the other party to the convention denies our right to do what it has done, and is doing itself, then the course to be pursued is open. The bill names no time when the possession shall commence. And the convention stipulates for a mutual liberty to either party, to recede, at twelve months' notice. Should we thus recede, we shall stand in no respect worse, and in some respects better, than we now stand. The territory is, on the theory of Great Britain, unoccupied, and open to the first comer; and she admits our right to establish any settlement, which does not interfere with any settlement of hers.

Should the suggestion I had the honor to make in the committee, some days ago, be approved by the House, and the northern boundary be brought down from the 54° 40' of north latitude, to the 49°, the bill will, in fact, be a very conciliatory one. Our undoubted right to the whole territory, from 42° to the Russian boundary, is admitted by every gentleman who has spoken on the subject. If we fix the boundary at 49°, we in fact give up nearly one-half of the territory.

My opinion is clear, that something decisive ought to be done by the way of vindicating our title. The British Government disclaims the design of colonizing the country, but it is rapidly settling by their hunters. The British official statement, annexed to the protocol of the sixth conference with Mr. Gallatin, sets forth, that, "in the interior of the territory in question, the subjects of Great Britain have had, for many years, numerous settlements and trading posts; several of these posts on the tributary streams of the Columbia itself; some to the northward, and others to the southward of that river." Into this territory, in fact, an American citizen cannot safely enter. This we know,

from the nature of things; from the history of the contests between the two rival companies in Canada, before their junction; and from positive testimony. With such a joint occupancy, Great Britain may well be satisfied; but it is, in fact, an abandonment, on the part of the United States, of the whole territory.

I am clear, then, that the opinion of this Congress ought to be heard. As yet we have done nothing but negotiate. The gentleman from Tennessee says, perhaps a negotiation is now on foot. It is possible; but we have no particular reason to suppose that such is the case. And if it were, what will it avail us? The Executive alone cannot settle this question. Foreign Governments know very well the organization of ours. They know that the Executive has no power, unsupported by Congress. What can we gain by a protracted negotiation, unsupported by the expressed opinion of the Legislature, and of the people as represented in it? For these reasons (said Mr. E.), we ought to take the matter in hand. I am willing, for the present, to confine myself to those acts of occupancy in which the British Government has preceded us, and of which, of course, it cannot complain. If it should (which I will not believe) go farther, and insist on turning into a monopoly by right, which has been too long a monopoly in fact, I should then feel prepared to renounce the convention, in the manner prescribed by its stipulations, and take proper measures to maintain the title of the nation, and the rights of our citizens in the territory.

TUESDAY, December 30.

*Occupation of the Oregon River.*

The House went into Committee of the Whole on the state of the Union, and took up the bill to authorize the occupation of the Oregon River.

Mr. MITCHELL, of Tennessee, said, it could not be pretended by any advocate of this bill, that our country is oppressed by an excessive population, too dense for the extent of our territory, and hence, that it has become necessary to give an outlet to those restless spirits, who, as appears, are willing to go into that sterile, snowy, and mountainous country, fit only for the abode of mountain goats, and wild beasts the most ferocious—a country inhabited by the most degraded of human beings; roamed over by a set of beings who live by accident rather than by design, and who are constantly engaged in combating the elements and the wild beasts of the forests, their common enemy—a country where nothing was to be procured, and where nothing awaited the infatuated adventurers who visited it, but wretchedness and ruin, and all the horrors of savage life. When (said Mr. M.) we contemplate that vast extent of fertile territory which spreads to the east and south of the Rocky Mountains, adapted to all the purposes of agriculture, and inviting to industry and enterprise, we may well be led to

wonder what can induce any adventurer to seek the inhospitable regions of Oregon, unless, indeed, he wishes to be a savage; to cut loose those silken cords, and rend asunder all those golden links which bind man to the enjoyment of civilized society, and to take refuge among the refuse and outcasts of Asia, Africa, Europe, and America; to forsake the haunts of civilized men, and find his pleasure in the pursuit of the elk and the bear. We are told that, in that country, there is a body of adventurers, a thousand strong, who have come from the organized Government of England, and whose object, doubtless, is much more to rid themselves of what they considered the burthen of the yoke of civilization, than to reap any fancied benefits which they derived from the vagrant life they lead in that sterile and desolate region. At what period do gentlemen suppose that the population of this happy republic will have filled up the extent of fair and fertile territory which spreads within our present boundaries? At what distant day will the pursuits of agriculture, and all the train of the mechanic arts, have fully taken possession of this immense region? Sir, that period is so distant that no gentleman of the most *prolific* mind can ever look forward to it. Not even within the reach of fancy itself can the advocates of this bill point out the time when the Oregon territory will require to be organized as a receptacle of an overflowing multitude, which finds itself too closely pent within the limits of the present States and territories of our happy Union.

But it has been said, by some gentlemen, that we ought to take possession of this territory, because, if we do not, some other power certainly will. Well, sir, and suppose they should, what shall we lose? What disadvantage shall we suffer? It is a territory which we ought never to inhabit, and which I hope we never shall inhabit. Why? In the first place, because it is situated at such an immeasurable distance—hundreds, yea thousands of miles from our seat of Government; insomuch that there never can, or will be, any intervening links sufficient to unite it with the residue of our country. It is utterly impossible to conceive, if we ever do plant a colony there, that it will ever form a part and parcel of this Government. I do not wish to characterize the project with harshness, nor do I intend any personal disrespect to its friends, when I am constrained to declare that, to me, it appears a wild and visionary project. It is a country that we can never have any thing more than a parental care over, and one which will return us no benefits at all commensurate with the expense and sacrifices indispensable to our settling and holding it. Grant that it should be possessed by some other power, what harm can result to us? What valuable interest have we there, which requires our taking possession of it? As to hunting, that our citizens can and do engage in at present; and as to the immense quantities of oil and fur that have been talked of, and the



DECEMBER, 1838.]

*Occupation of the Oregon River.*

[H. OF R.]

action, still more ridiculous, of its giving us a commercial outlet to the Asiatic coast, it has but little weight in my mind. From hence to the Oregon River is a distance of five thousand miles. It is a country from which we shall never export any thing of value, or import to any considerable amount. We may, indeed, bring some small amount of goods into the narrow and miserable strip of territory which intervenes between the mountains and the sea; but it is a trade which can never be disseminated in its benefits through the United States. The vast profits of which we have been told, never will be realized. But, if they could, will they be equal in amount to the vast expenditure inseparable from setting up and maintaining a colony in such a country and at such a distance? An expenditure, not of money merely, but of human life; of the lives of our enterprising citizens, whom we ought not to gratify in the mad ambition of seeking an early grave.

I never doubted the validity of our title to that territory. It is founded on the provisions of our treaties with Spain and Russia, and strengthened by the fact of the priority of our discoveries. Our claim is, in my judgment, perfectly incontrovertible, from latitude 42 to 49, and consider it as good even to the latitude of 54° 40' north, although, with respect to this latter part of the coast, I do not view our title as quite so clear. But is there any necessity for our occupying all the territory we claim? If that were necessary, why did not the old thirteen States send our troops to take possession of the valley of the Mississippi? For that, too, be it remembered, was claimed, and partially occupied, by a foreign power. But they did no such thing. They believed their title was good and sufficient, and they did not consider it necessary to strengthen it by actual possession. And I ask you, sir, what power is there which is now attempting to hold the country at the mouth of the Columbia? Not Great Britain: for she formally surrendered to us the only post we claimed to possess in that country. Nor does she hold possession of it against our efforts: for there have no persons come from the United States to occupy it. The British occupy it in no other way than the Asiatics do, and the French, and the Hollanders, and all other people, who are there, leading a roaming and unsettled life without any fixed habitation. It is true, that, at the suggestion of Capt. McKenzie, a visionary, Great Britain did confer certain rights upon the Northwest or Hudson Company; but she claims no right of possession as against us, and, by the treaty of 1818, she stipulates that the country shall be left open to both parties. Our claims can be fully substantiated, and let them be settled by amicable negotiation. This is far better than to attempt to maintain them by planting a colony in that inhospitable region. Such a colony, once planted, must be protected. If you hold out to your citizens inducements to leave their homes, in the bosom of civilized society, by

making to them donations of land in a distant region, you are bound when they accept your offer, to protect them in their new possessions, and this protection must be sufficient to guard them against the attacks, not only of all foreign powers, but of a body of more than two hundred thousand Indians, who are wandering in the region beyond the Council Bluffs. It has, indeed, been said that these are nothing but unarmed savages, naked, imbecile, and worthy of no consideration. But, sir, so it was thought by those who attempted the conquest of South America. They too were unacquainted with the use of fire arms and ignorant of European tactics. Yet they made up by their numbers for the want of arms, and, like swarms of mosquitoes, though individually feeble, were enabled, from their numbers, to harass their opponents; and in coming down in endless multitudes upon a handful of men, however well armed, they succeeded in utterly exterminating them. A similar fate would threaten your colony, and before you could render them any effectual aid, starvation would have destroyed what the enemy had spared. Besides, Mr. Chairman, look for a moment at the vast expense of planting, arming, and maintaining a colony, at such a vast distance from the rest of the republic. Who has forgotten, or can forget, the expedition once projected to the Yellow Stone River? The result of that project stands as a beacon before our eyes. But three boats ascended the Missouri; they travelled a distance of six hundred and fifty miles, carried three hundred men, and in all but two hundred and twenty tons burthen, and this cost the United States two hundred and fifty-five thousand dollars; that is, eight hundred and fifty dollars a head. No one who would not be desirous of preparing a premature grave for their followers, would think of taking less than four hundred men a distance of between three and four thousand miles from the mouth of the Missouri, to take and hold possession of the country. To send less than that number would be totally useless: for we have heard it stated that the British have in that country a body of men more than a thousand strong, besides all the Indian forces over whom they exert an influence. Send the lightest pieces of artillery that you can procure, and send with them provisions to support the garrison for twelve months, and the expense will not amount to less than one million two hundred thousand dollars—an expense which never will be repaid by those imaginary benefits with which gentlemen had amused themselves and the House. Believing this, I am utterly opposed to the whole project.

Mr. GORHAM, of Massachusetts, said, the substantial question for the committee to determine, he took to be this: Whether any such change has occurred in the relations of this country to England, or to any other portion of the world, as required us to assume a new attitude, and to pursue a different policy from what we had hitherto done, in relation to the country on the



northwest coast of this continent? It seemed to him extraordinary, after the recent confirmation of the convention of 1818, and while no complaints are made of any infraction of the terms of that convention by England, that gentlemen should urge this Government, with so little notice, to take a new stand in relation to the Oregon River. Gentlemen who called on Congress to take such a step, were surely bound to bring forward some good reason in support of it. In his judgment, it was reason enough for voting against such a bill as this, that all things respecting the territory in question are now precisely in the same situation as they have been for twelve years past. If gentlemen have any new information on the subject, if they can lay new and important facts before this committee, Mr. G. said he was prepared to give them all the attention they deserved. If they went to show that our trade in those seas called for new and additional protection, he should be willing to accord it; but as now informed, he was inclined to believe that, so far as the mercantile interest in New England was concerned, the people were perfectly satisfied with the existing state of things. It was impossible they should be so with the project contained in this bill.

As to the Columbia River itself, it was well known to be a stream of the most difficult, hazardous, and impracticable navigation; and the coasts at its mouth was a region of storms and tempests—a rocky, iron-bound coast—the dread and terror of the mariner. To talk of a fort in such a region, for the protection of our commerce, was idle. If any fort was to be erected there, instead of being at the mouth of the Columbia River, its true position was in 48° or 49° north, in what was called the Sound or Straits of St. John de Fuca. There, there was, indeed, a good harbor; but as to Columbia River, he was told by one of the most intelligent navigators he had ever known, and who was experimentally acquainted with the navigation of that entire region, that there was no harbor of more dangerous entrance. Great difficulty was almost always experienced, either in entering or in leaving it; and vessels had been lost in the attempt. So far, therefore, as this fort was intended for the protection of our trade by sea, the project must fail entirely. For the fur trade, no such fort was needed. The committee had witnessed a decided opposition in the representative of that interest, (Mr. BATES, of Missouri,) to the whole plan. This was enough for him. If the very people who are engaged in this pursuit, and who ought to be the best judges of their own interests, express not only indifference, but actual opposition to the bill, there can surely be no need that the nation should take a new attitude with foreign powers to protect them. If the object is to give a Government sanction to the fur trade in that region, all that was necessary would be to pass an act authorizing the Missouri Company, or the hunters of Michigan, to trade on the Colum-

bia River. At any rate, it will be easy to give to some fur company the privilege of the trade; and, in so doing, you will go as far, and not farther, than Great Britain has done. This would meet the case which his honorable colleague, (Mr. EVERETT,) with whom he reluctantly differed in opinion, supposed to exist, viz: that the British fur traders do now exclude those of the United States, and exercise an exclusive jurisdiction over the country.

Mr. RICHARDSON said, it was always with reluctance that he occupied a moment of the time of the House; but having been a member of the committee who reported the bill under consideration, he deemed it his duty to state his reasons for assenting to it. To settle, in my own judgment, the question of right to occupy, as proposed, the Oregon River and territory, I examined with care the correspondence between the Government of the United States and that of Great Britain, relating to that question. The evidence in the case led me to the conclusion, that the right of the United States to those possessions was perfect. After availing myself of all the accounts given of the river and territory by navigators and travellers of the most respectable character, I could not doubt the expediency of the proposed occupation. But the descriptions given yesterday, by gentlemen on the opposite side, of the Oregon River and territory, have almost shaken my confidence in the correctness of the judgment I had formed. They have described the territory as a region of desolation, the river unnavigable, the whole claim as worse than worthless, and, as it would seem, even reproachful to its author. How are these contradictory statements to be accounted for? Those who have navigated the river and traversed the regions from the Rocky Mountains to the Pacific, have represented the country as luxuriant and beautiful. Sir, I am old enough to remember having read the speeches in Congress on the question of the acquisition of Louisiana, when that question was pending. The most horrible pictures of that country were drawn in Congress, and spread before the Union, to deter the Government from the acquisition. And, sir, I have read accounts published by foreign travellers, and which were spread through Europe, describing the whole of the United States as a country fit to be inhabited by none but wild beasts and savages. Of such accounts there were latent causes, which time has unfolded. Before the face of the world, events have contradicted those accounts. Surely the statements of gentlemen on all sides, of what they have not seen, are to be received with caution.

The facts and arguments which induce me to support the bill, I will give in as few words as practicable. The evidence on which this Government rests its claims to the Oregon River and territory, demands the first attention. The bill proposes to occupy a territory bounded by the United States in an extent of more than twelve degrees of latitude, and spreading, in the

December, 1828.]

*Occupation of the Oregon River.*

[H. or R.]

same extent westward, to the Pacific Ocean, embracing about sixteen degrees of longitude. The contiguity, situation, extent, and resources, of that territory, render it necessarily an object of great interest to the United States. The right of the United States to the Oregon River and territory having been strenuously controverted by the British Government, and they being now in the actual occupation of that Government, the measure proposed by this bill requires sound deliberation and a patient examination of facts. The claim set up by this bill will expose this Government to a controversy with no other than that of Great Britain. France, Spain, and Russia, have, by treaty, expressly relinquished their claims in favor of the United States, and a claim the Spanish Government had vesting an incontestable right. This Government is, then, required to establish its right to that river and territory against any claims set up by Great Britain.

After examining all the sources of evidence to which I could find access, I am satisfied of the right of this Government to the extent of territory claimed by the bill. Admitting the right of sovereignty, as claimed by the bill, to be established, this question next presses upon the attention of the committee: Is it expedient now to pass this bill? To settle this question, a comparison of the value of the possession claimed, with the cost of the enterprise, ought to be made. The territory of Oregon is nearly eight hundred miles square; or, in other words, its area contains not less than six hundred and forty thousand square miles. Captains Lewis and Clarke describe the branches of the Oregon as passing through extensive basins of land, resembling the table lands in South America. The great basin of the Oregon proper is nearly nine hundred miles in length, and four hundred miles in mean breadth. Is that country, as has been repeatedly asserted on this floor, of no value? What is the testimony of the most impartial witnesses, who, with their own eyes, have seen the country, and in circumstances by no means flattering? The different navigators and travellers, of highest respectability, who have visited the northwest coast, concur in their descriptions of the climate, soil, and productions, of that fine country.

The forebodings which were opposed to the acquisition of Louisiana, have been, as I conceive, happily answered by experience. Had not Louisiana been in the possession of the United States, there is great probability, that, ere this time, powerful rival States would have existed there, to vex this Union with the vicissitudes of war and revolution, and with all the troubles that ambitious and turbulent neighbors have power to cause. A glance of thought on the course of events cannot but awaken feelings of veneration for the name of that great statesman to whose wisdom this Union is so much indebted for results so happy as have been realized, in our own time, from the acquisition of that country. Sir, I do not believe that a

wise system of Government—a system well balanced and adjusted—loses strength by being extended. The principles of self-government are capable of universality. They are in concert with the laws of the moral universe, and are applicable to communities on the broadest scale. True, indeed, the territory proposed to be occupied will be a great distance from the seat of the General Government. Will this be a disadvantage? Why may not Missouri or Maine derive as much real benefit from the General Government as Maryland, or even the district of Columbia? Do they not actually derive as much? In my heart I believe they do. Improvements of this age have greatly increased the facilities for travelling and intercourse. By the aid of these, the traveller goes on his way, day and night, at the rate of twelve miles an hour. He is transported from clime to clime as by magic art.

Mr. DRAYTON said that, although he concurred with the gentleman from Virginia, (Mr. FLOYD,) in the general principles of the bill which he had reported, he differed from him in some of its details. The bill assumed that the territory described in it, within 42° and 54° and 40' of north latitude, belonged to the United States. This was in dispute. Our Government has offered, by way of compromise, to relinquish that portion of it which lies beyond the 49th parallel of latitude. Their offer was not accepted; Great Britain denying our right to any part of the country on the northwest coast of America westward of the Stony Mountains. I presume (said Mr. D.) that our Government can establish its claim to the whole of it; but as the question has not been decided, and as, in the third article of our convention with Great Britain, of 20th October, 1818, it is stipulated that the whole country should remain free and open for ten years, (which term, in 1827, was extended to a further term of 10 years,) were the United States to erect it into a territory, to be regulated by their laws, they would, manifestly, commit a breach of their treaty. Congress has no authority to ascertain and define the boundaries of territory in dispute between the United States and a foreign kingdom; this must be effected by diplomatic negotiation and by treaty; until then, no exclusive legislation can be exercised, either by America or by Great Britain. Whilst I object to our converting a country in dispute into one of our territories, I do not agree with the gentlemen from Tennessee and from Massachusetts (Messrs. POLK and GORHAM) that the main object contemplated by this bill would impugn our convention with Great Britain. That convention leaves the contracting parties in the situation in which they were, at the date of its ratification; at that time, a common and undivided possession existed. Both nations may then retain the possession which they had, at the date of the convention; and the subjects and citizens of both may continue to inhabit it; the sole restriction under the convention being,

that neither the United States nor Great Britain shall change the political condition of the territory from what it was when the convention was ratified. 'Tis an unquestionable principle of the laws of nature and of nations, that governments are bound to protect their citizens—'tis for this purpose that governments are formed. All that I propose to accomplish by this bill is, to afford the protection of the Government to those of our citizens who permanently or temporarily reside in the territory referred to. The protection which is due to its citizens by the Government, is not impaired by distance, by inhospitality of climate, or sterility of soil. It prevails amidst the wilds of the forest, and the frozen shores of the Pacific, as powerfully as in the fertile plains of the West, and the populous cities of the North. The United States, under its influence, have established forts and garrisons to protect the persons and property of our citizens upon the frontiers; and they annually despatch squadrons, for the same object, to the Mediterranean, the West Indies, and the coast of Brazil. Whether an American citizen be traversing the ocean, or driving his ploughshare into the ground—whether he be in pursuit of gain abroad, or cultivating his farm at home, he is equally entitled to the protection of his Government. The British settlers, in what I shall term the territory of Oregon, (for the want of a known appellation distinguishing the territory upon the northwest coast of America in dispute between Great Britain and ourselves,) are already protected. They have the security which is furnished by soldiers and by fortresses; whether these fortresses be garrisoned by regular British troops, or by the armed men of chartered companies, is immaterial—both are equally the soldiers of Great Britain. Protected by them, British subjects are now, not only engaged in the commerce of our country, but they almost engross it. Should similar protection be afforded to our citizens, (which our Government has the same right to grant as Great Britain has,) there can be no doubt, from their hardihood and sagacity, that they would divide with the British the profits of a lucrative traffic. Without protection, our citizens must relinquish their pursuits, in a barbarous region, where they would be regarded as formidable competitors, and consequently be exposed to all the injuries which they would be subjected to from unrestrained cupidity and power. We have recently heard of eight Americans having fallen victims to the bloody vengeance of rival traders. Such examples must put a stop to their progress.

Before the late war, the Americans nearly monopolized the trade of the territory of Oregon. Upon the bank of the river was a settlement belonging to an enlightened and enterprising citizen of New York, which was surrounded by fortifications, and defended by armed men in his pay. This gentleman carried on an extensive commerce with the natives,

until a British force landed and expelled his men from their possessions, the site of which had been purchased from the Indians. His agent, unfortunately, from an apprehension of personal danger, or from some other motive, sold the site to a British subject; consequently, although, under the treaty of peace, all the country which had been conquered by either party was mutually restored, yet these possessions, being private property, were retained by the British purchaser. Since then, comparatively few of our citizens resort to the territory, and nearly the whole of its profitable trade has passed into the hands of a chartered British company, exercising there the sole military power, and an unlimited sway over the Indian inhabitants. The Indians, instigated, as has been strongly suspected, by the arts of this company, have frequently murdered our defenceless traders. Were our traders sustained by the military arm of the Government, they would resume their former avocations, and if they could not again acquire the largest share of the advantages peculiar to these regions, they would doubtless possess themselves of a considerable portion of them. That the exports from thence are of great value, is a fact not controverted. This has been very satisfactorily proved to us by the statements of the gentleman from Virginia, (Mr. FLOYD,) and by the reports of other gentlemen of this House, who have formerly been members of the committee of which he is chairman. It being undeniable, that our citizens, whose speculations lead them to the territory of Oregon, are entitled to the succor of their Government; and it being equally undeniable that the interest to be protected is one highly important to individuals, and therefore to the nation, opinions must be unanimous that the protection required should be granted. By granting it we do no more than the British have done, who cannot complain of our following their example. It does not suit the genius, and it is inconsistent with the spirit of our constitution, to create chartered companies, with civil or military privileges. We ought to interpose in a mode which would be legitimate, which would be subject to no cavils or exceptions, and which, at the same time, would accomplish what is desired. No mode appears to me to be so appropriate as occupying commanding positions in the country, fortifying them, and defending them with United States soldiers. If we resolve to give aid of this kind, it ought to be efficient. An inadequate force will provoke aggression, and diminish instead of adding to personal security. I allude not here exclusively to the violence of a chartered company, but to that of the Indians. Our citizens, in the prosecution of their lawful pursuits, in a country which is claimed as rightfully belonging to the United States, should be equally protected from the tomahawk of the savage and the bayonet of the regular. To effect this, it might be proper not to concentrate our troops at one spot,

DECEMBER, 1828.]

*Occupation of the Oregon River.*

[H. OF R.]

but to place them in two or three eligible positions. With our imperfect knowledge of the country, before these military positions can be judiciously selected, further explorations might be necessary. A discretion should, therefore, be vested in the Executive, to designate the posts for the troops, and the fortresses to be garrisoned by them, after he has acquired better local information, through the means of reconnaissance, which he should be authorized to direct; it being provided that the number of soldiers for the expedition should not exceed a specified number. It is to be desired, that man should always be under the restraint of laws and civil regulations, yet there are situations in which this desideratum is impracticable; this, at present, is the case in the territory of Oregon. It might be said that the laws of Britain prevail there; but they can only be co-extensive with her dominion; and as we do not acknowledge her right to any portion of the country, her laws cannot control our citizens. However it may be deprecated, it is nevertheless certain, that the only protection which can be yielded is that which is derived from physical force. In the territory of Oregon, the Indians must be awed, and the lawless traders of a chartered company be kept in check by the military, which ought, therefore, to be sufficiently numerous for these purposes. Until then, our citizens must either retire from the country, or be exposed to every commercial disadvantage, and to personal danger in their intercourse with the Indians. Having granted this protection, we should not now proceed any farther. When the question of title shall be decided, we may then determine what other legislative measures may be expedient, in order to give to this territory a government better adapted to the condition of civilized man.

Mr. POLK moved to discharge the Committee of the Whole on the state of the Union from the Oregon bill, and to commit it to the Committee on the Territories, with instructions to report an amendment having for its object, 1st. The extension of the civil or criminal jurisdiction of the courts of the territory of Michigan over all citizens of the United States who are or may hereafter be in the country west of the Rocky Mountains, and between the latitudes of 43 deg. and 44 deg. 40 min. north and west to the Pacific Ocean; and, 2d. An exploration and survey of the Northwest Coast of America, between those latitudes, its bays, inlets, and harbors, and of the Columbia River and its tributaries.

WEDNESDAY, December 31

*Retrenchment.*

On motion of Mr. HAMILTON, it was

*Resolved*, That the report of the Select Committee, entitled "A report on Retrenchment," made at the last session, be committed to a Select Committee, with instructions to report, by bill or otherwise,

touching the several subjects submitted by that committee to the House.

In offering this resolve, Mr. H. said that he felt it his duty to remind the House that a report had been made at the last session of Congress, by the Committee on Retrenchment. That report had been presented at a very late period, because the committee had had such a mass of investigation before it, as to be perfectly overwhelmed by its labors. In presenting that report, he had stated to the House that the committee had not sufficient time left to prepare the various bills which would be the legitimate consequence of the investigation they had made; but he had farther stated, that a motion would be made, early in the present session, to recommit the report, with a view that the necessary bills might be prepared in conformity to it. He was now aware of the shortness of the present session, but would assure the House that the requisite bills should be prepared with all possible expedition. It was not, however, the intention of the committee to press these bills with any improper importunity. The House could take up such of them as it might deem valuable, and would, in this respect, act its pleasure. The committee had conceived it proper that the accounts of the printers to this House, for eight years past, should be investigated, as it had been supposed by some that the terms of the contract under which the printing was performed had not been strictly complied with, inasmuch as the size of the page had been somewhat curtailed. It was, however, due to the printers to state, that they contended that this alteration in the dimensions of the page had been made as much from regard to the convenience and advantage of the House, as to their own, and that the slight difference which it occasioned had been abundantly made up to the public by the manner in which other parts of the contract had been performed. Under these circumstances, he had, at the last session, offered a resolution that this account should be fully investigated; and he believed that it was the understanding, both of the House and committee, that a thorough examination of it should be had during the present session, when time and opportunity would be afforded for taking the depositions of the witnesses, under the solemnity of an oath.

The resolution was then agreed to.

*Occupation of the Oregon River.*

The Oregon bill, together with the motion of Mr. POLK, of Tennessee, to commit the same to the Committee on the Territories, with instructions, coming up,

Mr. STRONG, of New York, said he was sorry to be obliged to differ in opinion from the very respectable gentleman (Mr. FLOYD) who had brought the bill into the House, as well as from any other gentlemen who were its friends, and for whose judgment he felt great deference. And lest it might be supposed by any that his difficulties arose from any secret doubt he

entertained as to the validity and justice of the American title to the territory, he would take this opportunity to say, that, so far as he had been able to examine the subject, and was capable of judging, his decided opinion was, that the title is in us: for, briefly, it seemed to be admitted, generally, that the elder and better title to the territory was in Spain and Russia. The convention, in 1790, between England and Spain, in relation to Nootka Sound, contains no cession of sovereignty of such a kind as to draw after it the use and ownership of the country. As we, therefore, have the title of Spain and Russia, the better title must be in us. But this is not now the question before us. That is a part of the general question, which this committee cannot touch. In 1818, the United States and Great Britain entered into a convention, the substantive terms of which are, that the country around the Oregon River, with all its ports, harbors, bays, creeks, and inlets, is, and shall be, secured to the vessels, citizens, and subjects, of both powers. The convention says, in terms, that the country shall be "free and open" to the vessels and citizens of both powers.

But it is said that this stipulation did not prevent England from extending, in 1821, the jurisdiction of her laws, so far as respects recovery of debts, and the punishment of crimes, over the whole of this territory, and that this is virtually an act of sovereignty, and amounts, in fact, to a taking possession of it, and appropriating the country as her own. It does not so strike me. But, at all events, the convention was renewed subsequently to that act, and as renewed, it expressly says that the country shall be free and open to the vessels, subjects, and citizens, of both powers, and, thereby, Great Britain solemnly renounces any intention to have taken exclusive possession of the territory. These terms of the convention are to remain binding for an indefinite time, unless twelve months' previous notice shall be given by one or the other of the contracting parties. This is subsequent to all the other acts of England, and, therefore, none of those acts can be pleaded as annulling the convention, as made in 1818. It is not my wish, said Mr. S., that we should even appear to violate the faith of the nation. Now, what does this bill propose? To put up a military power in the territory, under the sanction of this Government. Possibly, under some restrictions, this might be done without contravening the terms of the convention; but this bill lays no such restrictions. It defines the boundaries of the territory as covering the whole extent in dispute, and going from 42° to 54° north. It then goes on to appoint a regular Government, with judges, sheriffs, and all other officers, including custom-house officers, and proceeds to make donations of the soil to American citizens.

But the convention says the country shall be free and open alike to the citizens of both countries. It does not say it shall be open to

the action of both Governments—but open to the citizens and subjects of both. Now, if the United States shall interpose its power, and give away parts of the country to American citizens, does it not thereby exclude all others? But the bill goes beyond that; it erects a civil territorial Government, extending its authority over the entire extent of the territory, even to 54° north. There is this marked difference between the erection of a local military establishment and the erection of a civil Government: the former is transient, and may be withdrawn at pleasure; it may be sent, and may be recalled, without affecting, in any degree, the sovereignty of the country; but when the United States sets up an established civil Government over that territory, and your citizens go and settle and form establishments under its protection, can you, in good faith to them, again withdraw and annul it? You have pledged the national faith, induced them to form their settlements there, and thereby you have bound yourself to protect them. May you at pleasure take away their Government? May you leave them ungoverned and unprotected? I think not. If you shall go on to put up in Oregon a military power in subordination to a regular organized civil Government, what will Great Britain say? Can we pretend that this is not assuming the sovereignty of that country; that it is not assuming it to our own exclusive use? Certainly we cannot. And suppose Great Britain should answer us in the same way. Suppose the British Parliament shall set up their territorial Government; that she should appoint her Governor and all her train of officers, and should fix her establishments at some other point near the coast, say at the Straits of San Juan? Can gentlemen persuade themselves that these two Governments can go on peaceably side by side; that one of them will not soon exclude the other; and thus bring the two nations into direct and open collision? Sir, I said that I would not enter upon the merits of the bill, nor attempt to discuss the policy or expediency of practically assuming the exclusive right of occupancy in the Oregon territory. I shall keep my promise. If the honorable gentleman can so modify this bill, that it shall not conflict with the terms of our convention, nor thereby compromise the faith and honor of the nation, I do not know that I shall oppose it; but even admitting that the time has arrived when it is our duty to take possession of this country, I would still forbear to act in the matter, until the stipulated twelve months' notice shall have been given to the British Government. Then, when they are fairly warned, I would go on to legislate. If the bill shall receive any modification which shall leave the subject for the present as it now stands, I do not know that I shall oppose it. One thing I am decidedly in favor of. That is, to explore the country thoroughly. At present we know less about this country than we do respecting any other part

DECEMBER, 1828.]

*Occupation of the Oregon River.*

[H. OF R

of the territory claimed by this Government. If the country is but half as important as it has been said to be, this is obviously the first step we ought to take. Let us know the truth of the matter before we commit ourselves. Before we move, let us know where we are going. If we want to build a fort, let us know with certainty where is the best place to build it, and let us not allure our citizens to leave the comforts and blessings of an improved country, and encourage them to undergo the privations and sufferings inseparable from the condition of early settlement in a new and distant country, till we know what they are to meet, what will be their prospect of support, and what the probability of ultimate remuneration. As the bill now stands, I cannot support it, because, in my apprehension, it proposes a violation of the national faith.

Mr. GURLEY said, the principal objections urged against it were, that it was granting to those companies a monopoly; that it authorized them to extinguish the Indian title to the land; and that it approved and ratified their articles of compact and union. These were the objections of the member from Missouri, (Mr. BARNES;) but, if that gentleman had examined the amendment, as modified, he would have found no place for his argument. It so happened that no such power was proposed to be granted. They had no right, under the amendment, to extinguish the Indian title. There was no monopoly granted: for they were to receive lands, as other emigrants, under the 8d section of the original bill; and that part of the original amendment which approved and ratified the compact of union submitted by Bradford and his associates, had been stricken out. The only plausible objection he had heard, was from an honorable member from New York, (Mr. TAYLOR,) that it literally conferred nothing. He preferred the original amendment, but consented to modify it to make it acceptable to his friends. He admitted that, in its present form, it took nothing from the Government, but conferred something, (though not as much as he wished it did.) It at least gave them our consent to go, and our good wishes to accompany them. The United States are to supply their fort with artillery and munitions of war; but was this, trifling as it is, without a *bonus*? Do they not agree, on their part, to explore the country, and report to the Government; to carry seeds and the implements of husbandry, into that savage and yet unexplored territory; to cultivate peace with the natives; to keep an armed force, not only for their protection, but for others that may go there? They propose to be the pioneers in the settlement of the country; to take upon themselves the dangers, hardships, and privations, incident to the new establishment. Is this nothing? He thought that the amendment did not interfere with the principles of the bill, and that it should be adopted. He would adopt it as evidence of our good

wishes, and to protect them from the odious epithet of squatters, often applied to the best and most useful class of our population.

He would say a few words, in answer to the objections made both to the bill and amendment. It had been said, that the provisions of the bill would violate our convention with Great Britain. He thought this a mistake. The convention placed both Governments on the same footing. It confers reciprocal rights, and imposes reciprocal obligations. Great Britain has given a practical construction of the convention. She has erected forts, and, in 1821, extended her laws and civil jurisdiction over the country. He thought that the United States might do the same. If Great Britain had violated the convention, it was no longer binding on us; if she had not, neither should we by the passage of the bill. He differed from gentlemen who predicted war from the adoption of this measure. He was sure it would give no just cause of offence to Great Britain. It was doing only what the other party had done. He valued the public faith above all things else appertaining to the Government. He would observe it most scrupulously. But, at the same time, he would not abandon our rights, even at the expense of war. Great Britain had as much to lose by a war as we had, and she had too much prudence and foresight to engage in it unnecessarily. If, however, an unprovoked war, as it surely would be, was to be the consequence of this measure, he would meet it as we did the last, and furnish new evidence to the world of our ability to defend ourselves in a just cause, and in vindication of our rights.

He was decidedly opposed to the exploration of the country before the occupation of it, as was suggested by the gentlemen from Missouri and New York. They should be simultaneous. He could see no possible object in it, unless we were prepared to surrender it, if it did not equal our expectations, which he presumed all would disclaim. If it was as barren as the deserts of Siberia, we should never surrender it, and he would do nothing that could be so construed, as would necessarily be such a proposition. He said we could not surrender the territory if we would. We were already committed on this subject, having long since made and published to the world that no foreign power should plant a colony on this continent. We could not, therefore, without violating our own honor, truth, and sincerity, voluntarily surrender this territory to any foreign power. He respected the power and resources of Great Britain. He held sacred our national faith; and if he could believe for a moment that this measure would violate the latter, he would abandon it. The former he did not fear. We had come out of two wars with that nation, with honor both at home and abroad; and if it was the will of Heaven that we should again be involved in that calamity, the same result would follow.

Mr. WREMS said, that he had waited to the last moment, in hopes that some one better able and more conversant with the subject, might offer that view which had appeared to his mind most important, at this time, to be taken of it. That, however, not having been done, he felt himself constrained to claim the indulgence of the committee for a very few minutes, intending to confine himself, at this stage of the debate, almost exclusively to the amendment, the effect of which, as presented to his mind, (he hoped he should be pardoned for the term,) he could not but look at with abhorrence. Sir, what is the amendment? That you shall authorize, by a solemn charter, a private company to purchase out the Indian title to forty miles square, (he believed it was, however, the quantity was not material,) to erect a fort, &c., and then to furnish them, forever thereafter, protection. That, when he looked around and beheld these poor miserable Indians—the aborigines of this hemisphere—the natural owners of that moiety which we now claim as our rightful domain, even to the Pacific Ocean, he could not but feel for their miserable condition. Most of the new States, and some of the old, have tribes, or parts of tribes, remaining in them, all of whom must, sooner or later, be driven out. It is true, sir, said Mr. W., we profess to make treaties with them, and to be disposed to treat them humanely and justly; nay, sir, we even go farther: we invite them to consider our Chief Magistrate their political friend and father, and to come here to have talks with him, and to get justice done them; and we declare to the world that our feelings towards them are kind and paternal, whilst, at the same time, we are lending a favorable ear to propositions like the amendment, which, if adopted, must and will prove their certain destruction, without a possibility of escape. Now, Mr. Chairman, said Mr. W., what are Indians? Are they not men, although I admit they are “wild men—whose hands have been prophetically pronounced to be raised against every man, and every man’s hand raised against them—archers, who were to live by their bow,” and pronounced, on this floor, to be living by accident; still they are men—human beings—and as such, accountable, according to the light afforded them; and although not blessed like ourselves with the Gospel, yet “they have a law written upon their hearts,” by an honest and correct attention to which, they too are to be saved. I am aware, sir, said Mr. W., that I am subjecting myself, not here, but elsewhere, to the charge of fanaticism, for such opinions: but that is of little consequence; I feel it my duty to endeavor to enlist a feeling in their behalf; and wherever duty points the way, I trust I shall never be found unwilling or afraid to pursue it.

I do, therefore, most earnestly entreat this august assemblage—this the American nation, in her representative character—by all those obligations growing out of the laws of Chris-

tianity, morality, and of honor, to save those poor, illiterate, unfortunate inhabitants of the wilderness from total annihilation. And how are we to do this, unless we preserve, in our own right, some portion of this immense territory as their asylum—their last dernier refuge! And where so suitable as those distant regions, now so coveted by white men, that we, to gratify them, shall unnecessarily enter into obligations that shall hereafter oblige us, in good faith, to protect them, to the destruction of the whole Indian race? Will gentlemen attempt to justify this, by the plea that our ancestors did it before us? And to discontinue the warfare would be to denounce their conduct. If so, I will beg leave to ask such, if there be no difference between our situation and theirs! They fled to this, then a western wilderness, not only from starvation, but from a religious persecution, even worse than the dangers they had to encounter; whereas we have already more lands than we know what to do with, the States refusing to take, almost gratuitously, that which is owned by the United States within their several geographical limits; possessing freedom and every other blessing most desirable, and nowhere else to be found, at least so extensive, together with the right of worshipping God under our own vine and fig-tree. Whilst thus situated, we can have no excuse, certainly none from the example and the conduct of our ancestors, until our situation has become like theirs. Then the plea, that “necessity has no law,” may be raised, but surely at this time it cannot. I repeat the call upon this committee, by all that is desirable to us as a nation, and as men, religious, moral, and honorable, to cultivate something like charity towards this unhappy, illiterate, helpless people, and not to enter into an obligation that is to be the foundation of their murder. I have no objection, said Mr. W., to take possession of this whole territory, if it be necessary, so soon as it can be done consistent with our treaty stipulations; but upon this branch of the subject I will not trouble the committee.

Mr. DEAYTON proposed to amend the bill, by striking out all after the enacting words except the last section, and in lieu thereof, to insert—

“That the President of the United States be hereby authorized to erect a fort or forts on that part of the Northwest coast of America which is situated west of the eastern base of the Stony Mountains, between forty-two and fifty-four degrees and forty minutes of North latitude, and to garrison them with a competent number of the United States troops, not exceeding four hundred.

“Sec. 2. And be it further enacted, That the President be, and he is hereby, authorized to cause the aforesaid territory to be explored by such officers of the corps of engineers as he shall select, and that he may delay sending thereto any of the troops of the United States, until after such exploration shall have been made.”

In supporting my amendment to the bill un-



DECEMBER, 1828.]

*Occupation of the Oregon River.*

[H. OF R.]

der discussion, said Mr. D., I shall trespass very little upon the time of the committee. My objections to some of its details I have already submitted; upon some other parts of it, in consequence of observations subsequently made, I will offer a few remarks. As I propose to retain only the leading feature of the bill, which is to be found in its second section, in order to express my meaning clearly, it becomes necessary to strike out all the sections of it, except the last, in which the appropriation is contained.

The third section allows to settlers, being citizens, certain quantities of land. In the existing state of things, this is unattainable. Unless the sovereignty over the territory, and the ownership of the soil, be in the United States, they cannot grant a title to any part of it to individuals. However we may regard the sovereignty and the ownership of the United States, to be capable of the plainest proof, yet Great Britain contests them, and we have stipulated, by treaty, that, until the question between us be decided, neither party shall be acknowledged as sovereign or owner, but that the whole of what is mutually claimed, shall remain "free and open" to the subjects and citizens of both nations. Whilst this stipulation continues of force, we would not admit that Great Britain could confer a title to any part of the territory upon a British subject; and if she cannot, as, by the treaty, she is placed upon an equal footing with us, neither can we. Were this bill to become a law to-day, it is obvious that no title could be given to an American settler; nor is it possible that any can, until the sovereignty be vested in the United States. When that event occurs, the United States alone can extinguish the Indian title. This power, so far as relates to lands occupied by Indian tribes, out of the limits of a State, but within the territory of the United States, belongs to the United States; it is exclusively granted to them by the constitution, and they cannot delegate it to others. At present, then, all grants to land in the territory we are speaking of, must be utterly void. To promise them, by any act of legislation, would be premature and delusive.

That the execution of the fourth section of the bill would be a violation of our treaty with Great Britain, has been so fully shown by the gentleman from New York, (Mr. STORRS,) that I shall not incur what he has said, by adding to it any arguments of mine. My reasons against the fifth section I stated upon a former occasion; I will, therefore, not be guilty of a repetition of them. The amendments which I now offer will provide for all the objects necessary to be acted upon. They will ensure a protection to our citizens in the pursuit of their distant traffic, and enable the Executive, by being possessed of the knowledge required by a scientific exploration, to select the most eligible positions for military posts. It is contemplated that the engineers to be appointed for

the expedition shall be accompanied with a suitable escort, that they may conduct their operations in safety. For that purpose, I shall move, at a future time, to fill the blank in the 6th section with an adequate sum.

Mr. FLOYD, of Virginia, said that he felt it incumbent on him to rise in support of the bill, which he had the honor to bring before the notice of the House. Misconceptions had prevailed relative to its nature, and misconstructions had been made as to its object and purport; and it was therefore necessary that the committee should be put in possession of the real facts of the case, and of the advantages to the Union generally, with which the proposed measure was pregnant, before the House was called upon to legislate upon the subject. He could not but observe, in the first place, that some of the remarks of the honorable gentleman from New York, (Mr. STORRS,) were not, according to his conception, authorized by the British act of Parliament of the year 1821. He held in his hand, at that very time, the act of Parliament which gave that extensive power to the Anglo-American courts. It provided for the punishment of offenders in all parts of North America, not within the limits of Upper or Lower Canada, or amenable or subject to the civil jurisdiction of any State or Territory in the United States. That provision of the British law, it must be perceived, was susceptible of an indefinite extension. The authorities of British North America might, by virtue of that act of the British Parliament, exercise a sovereign control over all the citizens of the United States residing in that large tract of country which remained unsettled, or which was not organized into States or Territories, between the Mississippi and the Rocky Mountains. He might there also correct an error of the gentleman from New York, (Mr. STORRS,) which would not admit of so speedy an explanation as the former one, which he had alluded to. There was no such company in existence, then, as the British Northwest Company; the affairs of that company had, from some cause or other—mismanagement it might be presumed—become embarrassed, and the shares of it had been purchased by the Hudson Bay Company. The former was merely a private association of individuals, engaged in the fur trade for their joint and mutual benefit. The latter was an incorporated body; the objects of both companies were now pursued, and their business transacted by virtue of the Royal Charter. Much had been said by gentlemen, in particular on the part of the honorable member from Missouri, (Mr. BATES,) as to the insignificant amount and unprofitable nature of the trade in furs and peltry; but what appeared to be the circumstances with respect to the question, from which a correct result could be deduced?

The statement of a plain and simple matter of fact would show that, more fully and explicitly than he possessed language to depict



The shares in the Hudson Bay Company, which originally were of the value of £20 each, were now selling in the market at the enormous price of £200 sterling. Would anybody, in the face of such a decisive and self-evident argument as that, have the hardihood to say that that was not a valuable stock; and that the trade which paid the interest upon, and returned the profit for, the enormous amount of capital employed by the Hudson Bay Company, was not of a highly lucrative branch of commerce? It appeared perfectly clear to him, and he was confident must be equally apparent to that House, that the persons who negotiated that convention or treaty with Great Britain, were either deplorably ignorant, or entirely regardless of the best interests of the nation relative to that important and necessary article of furs; and in saying that, it was not his intention to enlarge upon what the British called a waiving on the part of the United States, of what he, (Mr. FLOYD,) in common with every gentleman in that House, who would reflect upon the subject, considered their incontestable rights of sovereignty. The committee should bestow on every branch of the subject that attentive consideration to which its importance, in every point of view, rendered it so eminently entitled. There was a tract of country nearly nine hundred miles in extent each way; from the western base of the Rocky Mountains to the Pacific Ocean, and on the seaboard from the Russian settlements in the latitude of 54° 40' north, down to 42°. Was not that vast region, containing, as it did contain, six or seven hundred thousand square miles, worth their notice and care—notwithstanding the fact might be as represented by the gentleman from Missouri, (Mr. BATES,) that some portion of the country was rocky, barren, and unproductive? But they should not omit to bear in mind, that it was the only country which produced furs in any considerable quantity; it was the only part from which the United States could obtain those valuable articles, which were alike necessary for home consumption, and for the carrying on of that great staple of American commerce, the trade with China. Was the committee aware of the fact, that the duty paid in England, during the last year, on the importation of foreign furs alone—foreign furs only, it must be observed—amounted to upwards of eleven hundred thousand dollars? The preceding year the same duties poured into the British treasury more than one million seven hundred thousand dollars. For foreign furs only, he could not too often repeat; entirely independent of the vast supply furnished by that active and powerful body corporate, the Hudson Bay Company. And yet the House must be gravely and seriously (if the extraordinary assertion did not defy all powers of gravity and seriousness to listen to it) told, that this trade was not worth the caring for. It was of no value. It amounted to but a very small sum, some two or three

hundred thousand dollars annually; and that the expenses of carrying into execution the bill then before them, would only involve the nation in great expenses, unattended by any corresponding advantages? Such was the argument, if argument it could be called, which was advanced by the opponents of the bill in the very face of plain facts, of official statements, of figures, which demonstrated the benefits of that trade to Great Britain—of that Britain which was their great commercial rival on every sea and in every market of the world—of that Britain, finally, from whom America must purchase furs for her own use, at whatever price might be put upon them, if she tamely consented to the surrender of a country which was justly hers by virtue of the great basis of all valid titles—discovery, occupancy, and treaty; and which was as necessary for the security of her western boundaries, as it was desirable for the best interests of her commerce. He was really at a loss to account for the peculiar objections made to the bill. The principal one was merely an incessant reiteration of the cry, "What will England think? How will England receive the intelligence that we mean to occupy the territory in question?" Why, what was it to them, as the Representatives of a free and independent nation, what England thought, or whether she condescended to think at all about the matter? Were they to sit in that House and legislate for a great nation under fear of the displeasure of England? He knew and appreciated the power and influence of the British empire; but he did not fear it: for, as to giving cause of displeasure, that country had, it was indisputable, as much reason for apprehension on that score as the United States could possibly have.

Mr. BATES, of Missouri, said he was right glad that the gentleman from South Carolina (Mr. DRAYTON) had thought proper to offer his amendment. It meets, said Mr. B., my views in the most essential particular, and removes many of my objections to the bill. Indeed, when I first had the honor of addressing the committee, I suggested the propriety of substituting for the original bill a scientific exploration of that immense region, of which we yet know so little. Many positive advantages might be gained to the nation from such an exploration, and we should at least be saved from the probable evils attendant upon a leap in the dark. As yet, we know little of the geography of that extensive country, and almost nothing of its topography and geological peculiarities. The natives, too, are strangers to us. We are very imperfectly informed as to their localities, their numbers, their tempers, whether peaceful or warlike, and their general character and habits; and I consider it of great importance that we should acquire a competent fund of knowledge on these particular subjects of inquiry, before we attempt the establishment of social and civil institutions among them. My objections to the military occupation of the

DECEMBER, 1823.]

*Occupation of the Oregon River.*

[H. OF R.]

country are fewer, and of a less decided character, than to the establishment of a territorial Government, and the extension of our civil polity there. The former may be a dangerous, and certainly will be an expensive experiment; but the latter is, in my judgment, pregnant with evils of an alarming character: for I should consider it nothing short of an entering wedge to a system of foreign colonization.

If the object of the military occupation be the protection of the fur trade, it seems to me that the coast is an improper location of the troops: for, if I am rightly informed, most of that traffic is carried on far in the interior, on the tributary branches of the Columbia, and in the distant valleys of the mountains. Some of the outposts were, formerly, at least twelve hundred miles from Astoria. These outposts must be, in a greater or less degree, fortified, not, indeed, by works capable of resisting the assaults of English or Russian cannon, but in a manner strong enough to repel the attacks of the ignorant and ill-armed savages that surround them. It is at these interior positions that the fur is collected from the Indians, and afterwards concentrated at the mouth of the river for exportation. A party for the interior exploration of the country of the Columbia, should be composed of very different materials, and organized in a very different manner, from one destined to make an examination and survey of the coast. Indeed, the latter is wholly unnecessary: for the coast is already known in its general aspect, and I believe every bay and harbor, from Cape Disappointment to Cook's Inlet, has been surveyed and sounded. Not so with the interior; of that we are still lamentably ignorant.

Mr. B. said that he should have forbore any further remark upon this subject, but he felt called upon to make a brief reply to some observations of the gentleman from Virginia, the original mover of the proposition, (Mr. FLOYD,) who seemed to have misunderstood him in several respects, and, in his argument, to have confounded several matters that had no necessary connection with each other. Any man, said Mr. B., at all acquainted with the northwest section of this continent, or with the routes commonly followed by the fur traders, and other explorers of that extended region, must know that the country, as a whole, is very imperfectly known, and that every general characteristic description ought, in common justice, to be received subject to many petty exceptions. If, therefore, the gentleman from Virginia had succeeded in showing that there are some exceptions to the sterile and inhospitable character of the country, it would avail him nothing in the argument. He might prove a thousand little green spots, at distant intervals, in that extensive desert, and still the country would remain a barren and cheerless waste—still my account of it would remain unimpeached. I believe it is perfectly just, and I

know it is in accordance with the most respectable testimony.

The gentleman from Virginia has recently received from General Clarke what he considers a favorable account of the Oregon country. General Clarke is a good witness on this subject, and I take it for granted that his best evidence is embodied in his book, *Lewis and Clarke's Travels*; for the facts there related are ascertained by ocular observation. Examine that book, sir, and you will find a most appalling description of the country. They say that the only good land for cultivation, in the valley of Columbia, is sufficient to support about forty thousand agriculturists! And I have it on the authority of Mr. Hunt, a gentleman surpassed by few in intelligence, and by none in respectability, that even this meagre exception is subject to annual inundation in May and June.

The gentleman is utterly mistaken in his version of the information which I gave the committee, as derived from my enterprising townsman, General Ashley. His route lies far south of the sources of the Columbia. Crossing the range of the Rocky Mountain, where it subsides almost into a plain, presenting few obstacles to wheel carriages, and none to pack horses, he makes his trading post at the Great Salt Lake, which I suppose to be the reservoir of the Bonaventura. I am sorry the gentleman did not listen to my former remarks more attentively. If he had, he would not have confounded what I said of an exploring trip of one of Ashley's men from the Salt Lake, southwest, towards the Gulf of California, with the description which I attempted of the gloomy mountains and pathless valleys of the Oregon—valleys which, I say again, and on the best authority, are impracticable for horses or mules—valleys where the natives travel on the water, and live in the earth.

The gentleman from Virginia has so long and so zealously dwelt upon this subject, that he seems to have arrived at the conclusion that nothing is wanting but a little aid from the Government, to make this river of his adoption a great channel of North American commerce, and the establishment at its mouth the great entrepot of Eastern and Western intercourse. To swell the magnitude of the enterprise, he draws into his calculation the total exports of furs and peltries from the United States and Canada; he presses into his service the Hudson's Bay Company, Lord Selkirk, and Mr. Astor; and embraces in his compendious view the coast of the east and the west, from Labrador to Mexico, and from Oonalaska to California. And, not content with monopolizing the whole fur trade of the continent, for the intended province of Oregon, the gentleman stretches his commercial views to other sources of wealth and power; the intended people of that country are to drive a thriving trade in ginseng and sandal wood! Sir, it may be so; ginseng grows almost everywhere on this continent; but, as for sandal wood, who ever

heard of a chip of it at the Oregon? It grows only between the tropics, about 23° of latitude south of this favored river. With all respect, I must be permitted to say, that these calculations are ideal and visionary. Let the Government put forth all its strength, and pour out all its treasures, it cannot change the character of the country or the river; the one will remain sterile and inhospitable, and the other will continue hard to enter, and still harder to navigate. No furs will seek an outlet through the Columbia, but those caught upon its own waters, or their immediate vicinity; and if you establish on that river a province with a population as dense as that of China, and build a fortress as strong as the seven towers of Constantinople, you can draw no more: the physical difficulties of the country forbid it.

The whale fishery, too, it seems, is to be made tributary to the commercial importance of the intended territory. Ask any gentleman from Massachusetts—ask your Nantucket whalers—whether any one of their ships ever touched at the Oregon, and they will tell you that, if one was ever there, it was driven there by some calamity. Yet, who, that knows the character of that wonderful people, will doubt that, if there was any thing desirable in the harbor of the Oregon, their sagacity would have discovered it, and if it were worth contending for, their enterprise and courage would have made it their own? They are the best navigators in the world, and not bad judges of their own interest. In their bold pursuit of wealth, they have already discovered about one hundred and fifty islands in the trackless waste of the Pacific, whose bays afford them every convenience in the pursuit of their vocation, and secure shelter in times of danger. I am not surprised at the different and contradictory accounts given of the Oregon, as a harbor for ships; and I attribute the disagreement to the different seasons of the year at which it was visited, or the prevalence of particular winds, when it was entered or departed from.

I have been accused, said Mr. B., of blowing hot and cold, as to the value of the trade of that country—of pretending, at one time, that it is worthless, and, at another, that it is very important. Surely I need not take the trouble to explain, if the gentleman does not already perceive how a particular branch of trade may be very important to a few dealers, in a little town of five or six thousand people; and yet, when viewed in connection with the general interests of a nation of fifteen millions, sink into comparative insignificance.

The gentleman speaks of the transportation of troops and munitions to the mouth of Columbia, as if it were an enterprise of daily occurrence, and easy to be performed. Sir, he is egregiously mistaken; it is an Herculean task, full of toil, and danger, and privation; and its successful accomplishment requiring the exertion of great and peculiar talents. The ordinary *material* of the army is, in my judgment,

but little qualified for the extraordinary purposes of such an expedition. The common men are disqualified, by education and habits, for a service so novel and peculiar; and even the talented and valuable officers furnished by that admirable institution, the West Point Academy, would find all their elaborate science and skill of little avail in a scene so novel, and so wholly different from the general course of military movements. But the gentleman gets over all these difficulties by the assumption of a very flattering fact. It seems to me, we are all fit to command the armies of the republic. We are all born generals. I am sure, sir, that I possess little or nothing of this military inspiration; and I cannot help fearing that the honorable gentleman has been led into the charitable error of imputing to all his countrymen the possession of these high qualities of command by his own consciousness of possessing them. It is related of King Philip of Macedonia, that he was astonished at the wonderful abundance of military genius among his enemies, the Athenians, who annually elected ten generals to command their troops, by diurnal rotation; whereas his majesty of Macedon could find, in all his dominions, no man but Parmenio, fit to command his armies. I cannot tell whether we most resemble the subjects of King Philip, or the citizens of Athens; but I am strongly inclined to the opinion, that we are not quite all generals, fit to be intrusted with the safety of the blood and treasure of the nation. Were I about to plan such an expedition, I would authorize the Executive to enlist a corps for the special purpose. I would empower him to choose men, both to command and to serve, whose former vocations, whose habits and peculiar qualifications, would afford some guarantee of ultimate success. It is not the business of a day; it takes two seasons to convey troops from the Mississippi to the Oregon. The first winter must necessarily be spent on the Upper Missouri, near the country of the Mandan Indians, where preparations must be made for the toilsome and perilous journey of the next season. All the privations of a wilderness of three thousand miles in extent, must be encountered, and numerous tribes of the wild natives must be passed, all of whom must be either conciliated or subdued. In such a service, the labored acquirements of military science would be of little avail, and the impetuous ardor of insubordinate valor would be impertinent, and worse than useless. The commander of such a corps should be habituated to the wilderness; he should possess a calm, cool, and forbearing intrepidity, and a deep acquaintance with the workings of untutored nature. By the exercise of some of these valuable qualities, Clarke saved the whole party of which he was the second in command. The private men, too, should be selected for their particular aptitudes and qualifications. And, for such employment, where will you find men to compare with the hunters and boatmen of

JANUARY, 1829.]

*Land Claims in Tennessee.*

[H. OF R.]

the North and West—the hardy sons of the forests, the lakes, and the rivers, whom no dangers can daunt, no toils exhaust, no privations subdue! Men whose adventurous steps have measured every prairie in the boundless West, and whose bark canoes have traced every stream in the dark valleys of the mountains. Such are the materials of which the expedition should be composed; and without such, the enterprise will begin in doubt and hazard, and will probably end in disappointment and mortification.

I am not, said Mr. B., so entirely opposed to the military occupation of the country as to resist it in every form; but I do believe that the provisions of this bill are not adapted to the end proposed, and cannot possibly accomplish the design. Can it be that one or two little forts, garrisoned by a handful of our ordinary troops, can afford protection to our traders throughout that extensive country; stretching, as it does, from latitude forty-two to fifty-four, and from the shores of the Pacific to the ridge of the Rocky Mountains? Sir, it cannot be.

One word, sir, on the subject of extending civil jurisdiction over the country, and I have done. Several gentlemen have dwelt with earnest emphasis upon the extension of the jurisdiction of the Canadian courts, by an act of the British Parliament; and seem to consider that act as novel and anomalous in the practice of this continent. But, sir, they have overlooked our own statute book. The British Parliament has but followed in the footsteps of the American Congress. The jurisdiction of our courts has been long since extended over that whole country; and for the truth of this assertion, I refer to our own judiciary acts, and especially to the Indian intercourse law of 1802. I cannot refer at this moment to page and section, for I was unexpectedly drawn into this debate by the remarks of the gentleman from Virginia, (Mr. FLOYD,) without any previous design of again addressing the committee. I have been a law officer of the Government on the frontier, and, as such, have been called upon to aid the court in the exercise of the power in question. I have prosecuted indictments for offences committed far beyond the civil limits of the States and territories; and I doubt not, that every Representative here from a frontier State can bear witness to the practical exercise of the same jurisdiction.

That our civil jurisdiction is extended to that country is beyond dispute; but I will not undertake to say that it is organized in such a form, and defined with such precision, as to afford a certain remedy for every instance of wrong. If our laws be defective in this particular, I will join the gentleman in applying an immediate remedy, by investing the frontier courts with all such powers as may be necessary to the protection of our citizens in every part of the national domain.

The progress of this debate has had, I be-

lieve, no other effect than to prove to the members of this House how ignorant we all are of the subject-matter of this bill, and how unfit we are, at this moment, to act understandingly, and with self-satisfaction, in taking any definitive course that may give direction and tone to the future measures of the Government. Sir, as yet, we have but a glimmering prospect of the promised land. We see it as through a glass darkly; and I do in my conscience believe, that any affirmative course that we may now take (beyond a simple exploration) will be adopted at the manifest hazard of the interest of the nation and the safety of the citizen.

MONDAY, January 5, 1829.

*Land Claims in Tennessee.*

On motion of Mr. POLK, the House took up the bill "to amend an act, entitled 'An act to authorize the State of Tennessee to issue grants, and to perfect titles to certain lands therein described, and to settle the claims to vacant and unappropriated lands in the same,' passed April 18th, 1806."

This bill had been under consideration during the last session, in Committee of the Whole, and had been laid upon the table during the pendency of an amendment offered by Mr. McLEAN.

This amendment Mr. McLEAN now withdrew, in favor of another, proposed to be offered by Mr. CROCKETT.

Mr. CROCKETT said that he had offered to the House the amendment to the bill, with the confident hope that, if he could succeed in convincing the House that this could not prove a precedent for its action in relation to other States, and that the land it proposed to give away would, if retained, be of no use or value to the General Government, they would adopt the amendment, and pass the bill. He regretted, on this subject, to be under the necessity of differing from his respectable colleague, (Mr. POLK,) but the House would remember that his colleague and himself were very differently situated. They had received instructions from the Legislature of their State, to ask Congress for a general grant of all the public lands remaining unpatented within its bounds for the purposes of education; and, having no prior obligation to conflict with those instructions, they were, of course, bound to obey them. He, it was true, as one of the Representatives of the State of Tennessee, was included within these instructions; but he had a higher authority, to which it was his duty and his pride ever to bow—his last instructions were from his own constituents, and these, in his estimation, took precedence of all others. The people who had honored him by making him their Representative, conceived that they were fairly entitled to the lands for which they had instructed him to ask this House, and which it was the object of his amendment to confer upon them.

He asked this, however, not on the ground of strict legal right; he presented nothing in the shape of a demand; but he presented such a case as he believed and trusted would not fail to awaken the sympathies of this House, and effectually command its liberality. The persons in whose behalf he pleaded were the hardy sons of the soil; men who had entered the country when it lay in a state of native wildness; men who had broken the cane, and opened in the wilderness a home for their wives and children. The most of these enterprising and industrious settlers had once possessed other and better homes than they now enjoyed; they had entered on fertile lands, under titles which they believed to be good, and were successfully pushing their humble but independent fortune, when they were unexpectedly driven from their improvements by the appearance of a stranger, bringing a warrant of older date than theirs. Some of them had suffered this cruel disappointment more than once; they had been driven from improvement to improvement, and from home to home, till, in despair of ever realizing their early hopes, they had settled on lands that nobody would claim—on scraps and refuse fragments of the soil, which remained after all that was valuable had been first selected and occupied. The country where their humble homes were situated had been thrown open to warrant-holders for eight years; floods of warrants had been issued, and armies of their holders had overspread the soil, picking and culling out all the good land as long as any was to be found; and it was the fractions, the odds and ends, the refuse which remained, in shapeless fragments, between the boundary lines of other tracts, that they now asked of Congress. The land was of poor quality, and of little value in itself; but it was dear to them, because it held their home, and was their all. The country thus situated formed but a small portion of the State, embracing the Congressional district from which he came, and part of another from which came his colleague on his right, (Mr. POLK.) The great mass of it lay in his own district, and, in fact, made up the whole of that district.

The House would, therefore, perceive how he was situated, and would appreciate the obligations under which he lay to press this amendment. It was impossible that the grant of fractions of land thus situated could ever operate as a precedent for grants in those States where the public lands were regularly laid out in townships and sections, by lines at right angles. This country had never been laid out at all. The General Government had never had a surveyor within its boundaries. It was thrown open in a mass for the satisfaction of the North Carolina warrants; and every man who had a warrant hunted out the best land he could find; and, in fixing his boundary lines, had respect only to the quality of the soil, and the quantity he had a right to take; and thus

the tracts located were of every conceivable shape. On the intervals between these lines, the people for whom he was pleading had fixed their little homes. They had mingled the sweat of their brows with the soil they occupied, and by the hand of hard and persevering toil had earned the little comforts they possessed. Was it fair for the General Government to take away these humble cottages from them, and make a donation of the whole to the Legislature of the State, for the purpose of raising up schools for the children of the rich? I ask the House, said Mr. O., if to do this will be an act of charity to the poor? It is asked by the State as charity: will it be so in practical effect? I ask some of it, but not for the State—not for the sons of the wealthy; but for the poor and industrious men who have given it all its value by their toil. Give it to them, and you will bind them to their Government by an indissoluble tie. Nothing makes a people love their Government like such acts of parental kindness. Sir, these people, though poor, are of inestimable value in a free republic. They are the bone and sinew of the land; they are its strength and its bulwark; they are its main reliance in the hour of danger, and the first to breast the onset of an enemy. Will you take away their little all and give it to the Legislature to speculate upon? Or will you make to each of these meritorious citizens the donation of his humble piece of land, where he has at last found a refuge from the pursuit of more successful warrant-holders? It is dear to him, however humble; his children were born upon it; and there he has lived in peace and contentment. I ask you to give it him, and I ask with the confident hope that you will do it. Sir, my people think that those who live northeast of the dividing line have already made enough out of them. My district has had to pay one hundred thousand dollars towards the erection of colleges in the northeast part of the State. I think this is quite enough, but still more is now demanded, and I find myself under the necessity of defending one poor district against all the rest of the State of Tennessee. I shall do it; for I am dependent upon them for my station here; and so long as I hold a seat upon this floor, I shall take their part against all who would exact upon them. Three hundred and five thousand acres of the best land in the district have already gone to satisfy warrants which I never believed to be just in principle. The compromise between the States of Tennessee and North Carolina required, indeed, the satisfying of these warrants, but they had been issued to revolutionary soldiers, who were dead, and had no heirs living, and I ever viewed the arrangement as unjust and oppressive. When the measure was debated in the Legislature of my State, I opposed it to the best of my poor ability, but we were overruled and had to submit. According to that arrangement, the colleges got sixty thousand acres of our land. The

JANUARY, 1829.]

*Land Claims in Tennessee.*

[H. OF R.]

University of North Carolina got one hundred and forty thousand acres more of it. After a little while, the demand for ninety-six thousand acres more was made. They demanded that this amount should be provided for and secured: that I also opposed. I could not, in my conscience, consent to it, because I did not think it right in principle. The measure, however, went into effect; and in a little while the ninety-six thousand acres had swelled to one hundred and five thousand. Yes, one hundred and five thousand acres taken out of one little district! You can readily believe that such a draught as that, made in twenty-five acre warrants, cut us up at an awful rate. The grant for the support of colleges drained us of fifty-two thousand five hundred dollars in cash. Ay, sir, in hard cash, wrung from the hands of poor men, who live by the sweat of their brow. I repeat, that I was utterly opposed to this: not because I am the enemy of education, but because the benefits of education are not to be dispensed with an equal hand. This college system went into practice to draw a line of demarcation between the two classes of society—it separated the children of the rich from the children of the poor. The children of my people never saw the inside of a college in their lives, and never are likely to do so. Those who passed the act well knew that we never should derive any good from it: but they insisted that the land should be given up, and they sent State surveyors to survey it. The expenses of that survey pressed heavily on my constituents—it drove some of them to their wit's end. Sir, I have seen the last blanket of a poor, but honest and industrious family, sold under the hammer of the sheriff, to pay for that survey. Ay, sir, the little furniture they had saved from better days, or earned by long and honorable toil, was torn from them to pay the fees of those surveyors. Exactions like these were made on men whose whole worldly estate consisted of some twenty or thirty acres of the poorest land. Sir, it is for such men that I plead. I ask, in my place, as their advocate and Representative, that you will make them a donation of that little property. Let it be their own. While they bedew it with the sweat of their faces, let them at least have the consolation of knowing, that they may leave it to their own children, and not have it squandered on the sons of a stranger. Such fragments of miserable soil can be of no use or value to this Government. You will never insist on retaining it in your own hands. You will never sell it, for it will never bear the expense of surveying. You must do something with it. Will you not bestow it as a boon upon the unfortunate people who have nothing else in the world? There they are living in peace—they can there make shift to bring up their children. Some of them are widows, whose husbands fell while fighting your battles on the frontiers. None of them are rich, but they are an honest, industrious, hardy, perse-

vering, kind-hearted people. I know them—I know their situation. I have shared the hospitality of their cottages, and been honored by their confidence with a seat in this assembly; and base and ungrateful, indeed, must I be, when I cease to remember it. No, sir, I cannot forget it: and if their little all is to be wrested from them, for the purposes of State speculation; if a swindling machine is to be set up to strip them of what little the surveyors, and the colleges, and the warrant-holders, have left them, it shall never be said that I sat by in silence, and refused, however humbly, to advocate their cause.

Mr. POLK rose, and said he did not differ so much from his colleague as he imagined. The Legislature of the State of Tennessee, in anticipation of the relinquishment which they expected to obtain from Congress, had already provided that, when the relinquishment should be obtained, the actual occupants should have a preference of entry. He was confident, therefore, if the relinquishment was made, that the constituents of his colleague would not be molested in their possessions by the Legislature, but would have a preference of entry. He had prepared an amendment, however, to the original bill, (which, when it should be in order, he would offer,) which provided, in substance, that the Legislature, in appropriating these lands, should, as they had already by their acts avowed their intention to do, give a preference of entry to the actual settlers. This, it occurred to him, would embrace all the objects his colleague asked. He would ask how the object of his colleague was to be effected by the amendment which he proposed? How could the United States patent these lands without first establishing a land office in the country and surveying them? We know the United States never had a land officer in the State; no Federal officer had ever surveyed them; and without first doing so, how could they ascertain what lands were vacant, and what were not? The lands that remained vacant were in detached parcels and scattered pieces, and were the refuse lands. All the lands that had ever been granted in the State had been granted by State authority, and by State officers—by State surveyors, by State registers, and by the Governor of the State. All the records in reference to these lands were in the archives of the State. The Government of the United States had none of them; they had no power or control over the State officers. Would not the amendment, therefore, be a nullity, unless Federal officers, over whom Congress had power and control, are appointed to carry it into effect? He said he was as friendly to these settlers as any one, but preferred leaving their interests to the State, who had never failed to provide for others similarly situated. He read the amendment which he proposed to offer, for the information of the House.

Mr. MALLARY said that, throughout the debate, it seemed to have been taken for granted, on all sides of the House, as a matter of course,

that Congress must cede these lands to the State of Tennessee, in one form or other; but the gentlemen from that State seemed to be quarrelling among themselves about the mode of dividing the spoils. If the House is determined on making the donation, it ought at least to be done according to the principles of justice and equity, and in such a manner as to retain the distribution of the land under its own control. One of the gentlemen was desirous of having the application of the gift reserved to the State Legislature. Mr. M. said he had no reason to doubt that the State Government would do justice in the case; but he preferred doing justice with our own hands, wherever this was practicable. Why should the House refer to others what it could as well do itself? He had no objection that the poor and industrious settlers should receive the gift of their little tracts; he believed that no gentleman in the House had any objection to it; and if so, why not give it them at once? As to the balance which may remain, some gentlemen contended that it would amount to almost nothing; others thought it would be very large and valuable. For his own part, he was of opinion that it would be best to ascertain first what it would be, and whether all the warrants had been produced which were to be satisfied out of it; when this was determined, it would be time enough to make the donation to the State. One of the gentlemen had objected that the amendment requires of State officers to do duty under the authority of the General Government. But the amendment does not require this at all. It merely says to certain citizens of Tennessee, if you will get your surveyors to lay out this land, you shall have it as your own. If they shall apply to their surveyors, and find them so very sensitive on the point of honor that they will not move in the affair, although their fees are offered them, why, then, (said Mr. M.,) I, for one, would say, the United States surveyors shall lay it out for them. But I am strongly inclined to believe that no surveyor in Tennessee will refuse to act.

Mr. MINER rose to inquire what was the quantity of land on which the bill proposes to act? Was it one million of acres, or four millions, or ten millions? He also wished to know what amount would be given by the amendment to the settlers for whom the gentleman had been pleading. He also wished to know why the United States should cede the public lands in Tennessee, to that State, any more than the public lands in Ohio or Illinois to those States? Was not this bill an entering wedge to the plan of getting rid of the whole of the public domain? What special reason applied to Tennessee, which did not apply to the other States where we had lands?

Mr. CROCKETT replied to these inquiries, that the public land in Tennessee had never been laid out into sections and sold at the land office, as in the other new States. These poor people cannot go and enter a section or a quar-

ter section of land, as in Ohio and Illinois. The United States never had a surveyor within the State; and if they had, it would cost more than ten thousand dollars to bring these shapeless remnants into market. The land had been thrown open in a mass to the warrant-holders, and they had ransacked, picked and culled it, till every thing valuable had been already located. This land, lying between, in odds and ends of every form, was differently situated from any land held elsewhere by the United States; and therefore, this amendment was no entering wedge, and could operate as no precedent in the matter.

Mr. BUCKNER said that, when this bill had been up at the last session, he had been opposed to it, and had submitted his reasons at some length. The bill had been laid upon the table; from which it was to be inferred that the House judged the bill, as it then stood, ought not to pass. Mr. B. said he had heard nothing since that time which operated to change his opinion. If the House must give land away, he certainly preferred the amendment now under consideration to the original bill. He thought, too, that there was a great difference between the two amendments; and many gentlemen might vote for the one, who could not vote for the other. For himself, he never had recognized the claims of Tennessee to these lands; but a donation to these poor settlers would not go to settle the question, nor operate to commit the Government. The first amendment (Mr. POLK's) had, indeed, been amended, by the insertion of the words "without charge;" but, situated as those words were, they left the sense very indefinite. Without charge for what? For entry? for the preference of location? for the fees? Or did it mean without charge by way of consideration money? He presumed the latter to be the sense; but the words did not clearly convey it. As to the difficulty with respect to surveyors, it was purely imaginary; the surveyors would be willing enough to labor for their fees. The amendment says the land is to be granted "without charge;" but who is to pass the law to carry this provision into effect? The Legislature of Tennessee. But the time, the prescribed manner in which the preference of entry is to be obtained, and all the subordinate legislation, is left to the Tennessee Legislature. He did not say that that Legislature would not do, in the matter, all that was just; but certain it was that the preference of entry might be so encumbered, as to render it, in effect, of but little value. He, therefore, preferred the other amendment, (Mr. CROCKETT's.)

Mr. WEEMS remarked to the House, that a small spark often kindled a great matter. He viewed this bill and amendment, as of serious importance. It was true, that this is poor land, which would bring the Government in debt to survey it; and, as the settlers are very desirous of obtaining a valid title, it may perhaps be given them without any dangerous conse-



JANUARY, 1829.]

*Slavery in the District of Columbia.*

[H. OF R.]

quences. But if gentlemen would cast their eyes at the new States of this Union, and at the claims which some of them have recently advanced to the possession of the entire public domain, they would, perhaps, recognize the wisdom of the old proverb, "Give an inch and take an ell." They first petitioned for a part; but now they begin to claim the whole as a right. As to the present amendment, he considered it as harmless in its character. The amount involved was not great; but if the House concluded to bestow it, let them do it with their own hands: for here another excellent proverb applied: "If you want your work done, send your servant; if you want it well done, do it yourself."

Mr. CULPEPER said he was in favor of the present amendment. He had in general been opposed to giving land to persons settling without title; but these persons were differently situated. They were not squatters, but persons who once had title, but had been crowded out by elder warrants; this formed a case which was deserving of relief, and he hoped that the amendment would prevail.

Mr. BELL was desirous, if the rules of order permitted it, of introducing an amendment, by way of substitute for that of Mr. CROCKETT, the object of which was to give all the remnant of the United States land in Tennessee to the Legislature; then to allow the actual settlers, previous to December last, a pre-emption right to the lands they had settled on, at the rate of thirty-seven and a half cents an acre; and then to devote the residue to the construction of a road from Memphis to the Cumberland road at Zanesville.

Mr. LEE, advertng to the importance of the subject, and the manner in which it had been complicated by the amendments, and apprehending that some might inadvertently give a vote which they would afterwards regret, with a view to give time for further consideration, moved an adjournment; which motion prevailed.

TUESDAY, JANUARY 6.

*Drawback on Refined Sugar.*

Mr. CAMERLUNG, from the Committee on Commerce, to which was referred the amendment of the Senate to the bill allowing an additional drawback on sugar refined in the United States, and exported therefrom, reported the same.

The amendment was concurred in.

*Slavery in the District of Columbia.*

Mr. MINKER moved the following preamble and resolutions.

Whereas the constitution has given to Congress within the District of Columbia, the power of "exclusive legislation in all cases whatsoever;"

And whereas it is alleged that the laws in respect to slavery in the District of Columbia have been almost entirely neglected;

From which neglect, for nearly thirty years, it is alleged there have grown numerous and gross corruptions;

That slave-dealers, gaining confidence from impunity, have made the seat of the Federal Government their head-quarters for carrying on the domestic slave trade;

That the public prisons have been extensively used (perverted from the purposes for which they were erected) for carrying on the domestic slave trade;

That officers of the Federal Government have been employed, and derived emolument from carrying on the domestic slave trade;

That private and secret prisons exist in the District for carrying on this traffic in human beings;

That the trade is not confined to those who are slaves for life, but persons having a limited time to serve, are bought, by the slave-dealers, and sent where redress is hopeless;

That others are kidnapped and carried away before they can be rescued;

That instances of death, from anguish and despair, exhibited in the District, mark the cruelty of this traffic;

That instances of maiming and suicide, executed or attempted, have been exhibited, growing out of this traffic within the District;

That free persons of color, coming into this District, are liable to arrest, imprisonment, and sale into slavery for life, for jail fees, if unable, from ignorance, misfortune, or fraud, to prove their freedom;

That advertisements, beginning "We will give cash for one hundred likely young negroes, of both sexes, from eight to twenty-five years old," contained in the public prints of the city, under the notice of Congress, indicate the openness and extent of the traffic;

That scenes of human beings exposed at public vendue are exhibited here, permitted by the laws of the General Government—a woman having been advertised "to be sold at Lloyd's tavern, near the Centre Market House," during the month of December;

And whereas a Grand Jury of the District has presented the slave trade as a grievance;

A writer in a public print in the District has set forth, "that, to those who never have seen a spectacle of the kind, (exhibited by the slave trade,) no description can give an adequate idea of its horrors;"

To such extent had this been carried in 1816, that a member of Congress from Virginia introduced a resolution in the House, "That a committee be appointed to examine into the existence of an inhuman and illegal traffic in slaves carried on in and through the District of Columbia, and report whether any, and what, measures are necessary for putting a stop to the same;"

The House of Representatives of Pennsylvania at their last session, by an almost unanimous vote expressed the opinion, that slavery, within the District of Columbia, ought to be abolished;

Numerous petitions from various parts of the Union have been presented to Congress, praying for the revision of the laws in respect to slavery, and the gradual abolition of slavery within the District of Columbia;

A petition was presented at the last session of Congress, signed by more than one thousand inhab-



itants of the District, praying for a gradual abolition of slavery therein :

And whereas the ten miles square, confided to the exclusive legislation of Congress, ought, for the honor of Republican Government, and interests of the District, to exhibit a specimen of pure and just laws :

*Be it Resolved*, That the committee for the District of Columbia be instructed to take into consideration the laws within the District, in respect to slavery ; that they inquire into the truth of the foregoing allegations, and report the facts connected therewith, and that they also inquire into the slave trade as it exists in, and is carried on through, the District : and that they report to the House such amendments to the existing laws as shall seem to them to be just.

*Resolved*, That the committee be farther instructed to inquire into the expediency of providing by law for the gradual abolition of slavery within the District, in such manner that the interests of no individual shall be injured thereby.

Mr. WREMS, of Maryland, moved the question of consideration : on which question Mr. MINER demanded the yeas and nays, and they were ordered by the House.

The House agreed to consider the resolutions—yeas 104, nays 70.

Mr. WICKLIFFE moved that the preamble to the resolutions be stricken out. He had no objection that the proposed inquiry be submitted to the Committee on the District. He was no advocate for the trade to which it alluded : but the preamble of the resolution assumed as true, certain facts of which he knew nothing, and of which he believed the House in general knew as little as he did.

Mr. CULPEPER hoped the motion of Mr. WICKLIFFE would prevail. He had voted for the consideration of the resolutions ; but he was not in favor of the preamble. The gentleman might know something of the facts stated, but for himself, being entirely ignorant of them, he could not vote for a preamble which pledged the House for their correctness.

Mr. WREMS hoped the gentleman would consent to the omission of the preamble. It was entirely on account of that, that he had moved for the question of consideration : for his own part he did not believe one word of what it contained.

Mr. MINER now commenced a course of statements in support of the resolutions and preamble, which were interrupted by the expiration of the hour allotted for reports and resolutions.

#### *Occupancy of the Oregon River.*

On motion of Mr. FLOYD, the House again went into Committee of the Whole on the state of the Union, and took up the bill for the occupation of the Oregon—the following amendment which had been proposed by Mr. DRAYTON, being under consideration :

Strike out all after the enacting words, except the last section, and, in lieu thereof, insert :

“That the President of the United States be

hereby authorized to erect a fort, or forts, in that part of the Northwest Coast of America which is situated west of the eastern base of the Stony Mountains, between forty-two and fifty-four degrees and forty minutes of north latitude, and to garrison them with a competent number of the United States troops, not exceeding four hundred.

“Sec. 2. *And be it further enacted*, That the President be, and he is hereby, authorized to cause the aforesaid territory to be explored by such officers of the corps of engineers as he shall select, and that he may delay sending thereto any of the troops of the United States until after such exploration shall have been made.”

Mr. TAYLOR had moved to amend the said amendment, by striking out all after “President of the United States,” in the first section, and substituting the following :

“Cause an exploring expedition to be organized and executed, to consist of not more than eighty persons, including a corps of geographers and topographers, for the purpose of collecting information in regard to the climate, soil, natural productions, civil and political condition, harbors, and inhabitants, of the territory of the United States west of the Rocky Mountains.”

Mr. CAMBRELENG said that, before the committee decided upon either of the propositions, it was important to have all the information that could be obtained. From a long and intimate acquaintance with the gentleman so frequently referred to, (Mr. Astor,) he had been made acquainted with many facts connected with the commercial and political history of the country beyond the Rocky Mountains. He was decidedly opposed to all plans of colonizing, to all grants of land, or the establishment of a territorial government. He was, however, of opinion that though it was a perplexing question, it was absolutely necessary that something should be done, and that promptly. The plan of sending out a topographical and geographical corps was not the measure required by the nature of the case, or demanded at this crisis. Although not concurring entirely with the amendment offered by the gentleman from South Carolina, (Mr. DRAYTON,) he was substantially in favor of it. He thought a military post best designed to secure the objects we had now in view, which were to protect our Indian traders ; gradually, through their agency, to regain possession of that country by pacific means and to prevent disputes between the traders in that region, which might lead to war with Great Britain. We have (said Mr. C.) acquired a title to that country, by the acquisition of Louisiana and Florida : our claim, at least to the boundary established by the Treaty of Utrecht, the 49th degree, he thought could not be questioned, and that was far north of the mouth of the Columbia River. Antecedent to the war, we held undisturbed and undisputed possession of that country. In 1810, one of our citizens, a merchant of enlarged mind and daring enterprise, projected a settlement on the Columbia. He sent the Tonquin, of 20 guns, with appren-

JANUARY, 1839.]

*Occupancy of the Oregon River.*

[H. OF R.]

tices, mechanics, traders, &c.; and at the same time despatched an expedition overland. Both arrived in safety and founded Port Astoria. The company commenced and continued to enlarge its trade with the Indians; posts were established almost to the mountains, and a line was contemplated entirely across the continent. Mr. A. had engaged to furnish \$400,000, and had made considerable progress in this bold, and, as it would have been, profitable enterprise, when the war of 1812 broke out. The Northwest Company, his great rival in the fur trade, as it was supposed, intimated to the British Government the propriety of sending out a vessel of war to capture Fort Astoria. They at the same time sent an agent overland to alarm the agent of Mr. Astor, and to induce him to dispose of the settlement and the furs collected. Unfortunately, the principal agent was absent, and the sub-agent sold an establishment, which was then worth two hundred thousand dollars, to the Northwest Company, for about forty thousand dollars. Thus was Mr. Astor, by an artifice, defeated in one of the greatest enterprises ever undertaken by any one individual. Our commissioners at Ghent were apprehensive of the fate of Port Astoria, and expressly provided for the restoration of "all territories, places, or possessions." In 1817, our Government despatched the Ontario to take possession of it. In 1818, Lord Castlereagh complained of this to Mr. Rush—not that he disputed our right—but that notice had not been given to the British Government, who would have given orders for its restoration, without which collisions might arise. He had, to prevent such disputes, requested Earl Bathurst and the commissioners of the admiralty to give orders to restore Fort Astoria, according to the Treaty of Ghent; his Lordship, at the same time, intimating that Great Britain had a claim to that country; but "admitting, in the most ample extent, our right to be reinstated, and to be the party in possession, while treating of the title." The Blossom was accordingly despatched from Lima, with the agents of the two Governments: and Fort Astoria (called by the Northwest Company Fort George) was formally restored to the United States.

As new pretensions are growing up, he would read this important document to the committee, viz:

**"ACT OF SURRENDER AND ACKNOWLEDGMENT.**

"In obedience to the commands of His Royal Highness the Prince Regent, signed in a despatch from the Right Honorable Earl Bathurst, addressed to the partners or agents of the Northwest Company, bearing date the 27th January, 1818, and in obedience to subsequent orders, dated the 26th July last, from Wm. A. Sheriff, Esq., Captain of his Majesty's ship *Andromache*, we, the undersigned, do, in conformity to the first articles of the treaty of Ghent, restore to the Government of the United States, through its agent, J. B. Prevost, Esquire, the settlement of Fort George, on the river Columbia.

"Given under our hands, in triplicate, at Fort

Geo ge, Columbia River, this 6th of October, 1818

"F. HICKY,  
"Captain of His Majesty's ship *Blossom*.  
"JAMES KEITH,  
"Of the Northwest Company."

"I do hereby acknowledge to have this day received, on behalf of the Government of the United States, the possession of the settlement designated above, in conformity to the first article of the treaty of Ghent.

"Given under my hand, in triplicate, at Fort George, Columbia River, this 6th of October, 1818.

"J. B. PREVOST.  
"Agent for the United Company."

Our agent in announcing this surrender, says, that the flag of Great Britain was lowered, and that of the United States hoisted on Fort George, "where it now waves in token both of possession and of sovereignty." He also adds, that the Northwest Company "will continue to occupy and protect it under our flag, until it shall please the President to give orders for their removal." Under what pretext then can Great Britain dispute our right to the possession of that country?

In the same month, (continued Mr. C.,) in a distant part of the world, a commercial treaty was negotiated between the United States and Great Britain. The British commissioners, appreciating the value of this trade, the advantages of the harbor at the mouth of the Columbia, and wisely foreseeing that this mixed question of boundary, Indian trade, and territorial dominion, would become one of magnitude between the two countries, urged it upon our commissioners. The latter seemed to view it with comparative indifference. Considering it unimportant, they admitted the third article in the treaty of 1818, leaving the boundaries, rights, and claims of the two countries as they were, and merely agreeing to a reciprocity in the Indian trade. This was an unfortunate concession to Great Britain; it was only a nominal reciprocity, and has operated as an actual surrender of that whole country to her traders. And however small this concession may have been, in the estimation of our commissioners, it may turn out hereafter to be large enough for the foundation of a future war with Great Britain. The Northwest Company ought to have been allowed sufficient time to close its concerns. A joint trade should never have been permitted with the Indians. That company were then in possession of the trade—whoever has that, must have the Indians; and whoever has them will have the country. Under that provision they have spread their trade into the interior. The two companies were united in 1821, and the Hudson's Bay Company was chartered for twenty years. Under the advantages of transferring their affairs from Hudson's Bay to Columbia River, the shares of that company have risen from sixty to two hundred and forty pounds sterling. Their returns have been annually increasing at the rate of from sixty to

one hundred thousand dollars in each year, and the entire returns for the year 1828, estimated by one familiar with the value of furs, is about eight hundred and ninety-five thousand dollars. Under the operation of this unfortunate concession, another East India Company is growing upon our frontiers, spreading through a country to which our right of possession, at least, is undisputed, and reaching not only through our dominions, but extending from the polar regions to California.

Thus have we been actually dispossessed of the country beyond the Rocky Mountains. In what way can we regain it, without violating our obligations, and disturbing the harmony between the two countries? We must either discontinue our treaty according to its contingent provision, and take measures for removing the Hudson's Bay Company, or establish Government trading houses, on Mr. Jefferson's plan, or adopt the measure proposed by the gentleman from South Carolina. The first would be unfriendly and expensive, and could be only gradually effected. We know, by experience, that the second would be more expensive than the last. There seems to be no practicable alternative but the establishment of a military post for the protection of your traders. Establish that, and they will fearlessly push their expeditions to the mouth of the Columbia. A depot would soon be formed there, under the protection of your post; an annual ship would visit that settlement to take out supplies, and carry the furs and peltries to Canton. Your traders would gradually exclude those of the Hudson Bay Company, for no nation can contend with us in equal competition; and you would, in time, peaceably regain the possession of that country. Our treaty can be in no manner violated by the establishment of such a post. That region is now free and open to the traders of both nations; but that is all we have conceded. We have given Great Britain no right to establish forts, and place garrisons in that country; nor have we surrendered to her our right to establish military posts in any region to which she admits our right to be the "party in possession while treating of the title." She may claim that country; so may Russia, France, Spain; but would either of them dispute our right to be the party in possession, and our sovereign right to fortify our possessions? Our purpose in establishing a military post is in strict accordance with the object of our treaty—the "only object" of that provision being, as it declares, "to prevent disputes and differences between the high contracting parties." These have already begun; some of our traders have been cut off, where, or by whom, is unknown, but it is not difficult to conjecture by whose agency. Plant your military post in the neighborhood of Fort George, you will hear no more of our traders being cut off in the interior; you will protect the traders of both countries, and prevent collisions between them. Great Britain certainly cannot object to a measure of pre-

caution and humanity, while we do not go beyond that region to which she has solemnly conceded our right of possession.

Mr. EVERETT said he should deem it an unfortunate result of this debate, if an impression should be produced by it, and go abroad among the people of the United States, that the territory in question was of little consideration, in the judgment of the House. If, in consequence of misinformation, or want of information, such a result should be produced, the question on the territory would stand worse than if it had never been agitated. It was for this reason that he was induced to trouble the committee for a few moments. The gentleman from Virginia (Mr. FLOYD) had yesterday put into his hands a work, which he had never before seen, written by an individual who certainly possessed ample means of information, and who, like the correspondent of the gentleman from Missouri, (Mr. BATES,) was one of the first company sent out by Mr. Astor to the mouth of the Columbia. The work in question appeared to be substantially the journal kept by him, from the time of his sailing from New York, in September, 1810, till his return home, after the dissolution of Mr. Astor's establishment. The work is the production of a Canadian Frenchman, and though without pretensions to literary merit, is probably the amplest account which has been published of Mr. Astor's establishment, and furnishes considerable information with respect to the country on the Columbia River. It was not Mr. E.'s design to go over the ground in detail, but, in casting his eye through the volume, he had noticed a few statements which he thought would be acceptable to the committee.

One of the most important considerations, in regard to this region, is that which concerns the harbor at the mouth of the Columbia River, and the entrance into it. Our navigation, and whale fishery, on the Pacific Ocean, are vastly important to the country; and, as he had stated, on a former occasion, unless we have a retreat into the Columbia River, or the other harbors in this territory, there is not, on all the coast of the Pacific, a port to which we could have recourse in time of war. The property, which, in the event of a war, would, on the Pacific Ocean, be at the mercy of the strongest naval power, would exceed by ten times the expense of fortifying the mouth of the Columbia River. Now, it had been represented, in this debate, that the harbor within the mouth of the Columbia River was nearly inaccessible, and that, particularly in the six winter months, it was, in consequence of the monsoons, entirely so. Mr. E. believed this to be quite an erroneous statement. The entrance to the harbor was undoubtedly one of considerable difficulty, which arose from the heavy surf on the bar, and this difficulty was of course greater in some states of the wind, than in others. But he was, he believed, warranted in saying, that the winds were variable in this region; and that

JANUARY, 1829.]

*Occupancy of the Oregon River.*

[H. OF R.]

the Columbia River might be entered at all seasons of the year. So far from being inaccessible in Winter, the vessel which carried out Mr. Astor's first company, the unfortunate ship *Tonquin*, (of whose fate a very interesting account is contained in the work just mentioned,) entered the mouth of Columbia, with considerable difficulty, it must be admitted, on the 25th of March; Capt. Gray, in the *Columbia*, entered it, I believe, on the 11th or 12th of May; the *Beaver* arrived on the 9th May, 1811; the *Albatross* on the 4th August, 1812; the *Raccoon* a British ship of war of twenty-six guns, on the 30th of November; the *Pedlar*, on the 28th of February. There does not appear any thing extraordinary or peculiar in the cases of the foregoing vessels, which seems accordingly to show that the river is accessible at all seasons of the year. It is to be borne in mind, that there is as yet nothing, or next to nothing, to facilitate the entrance. The mouth of the *Columbia* has not yet found its way into our coast pilots. Valuable soundings have been made; but even these, not to the extent to which they are generally made in the waters of countries long settled. There are no light houses, no buoys, no landmarks well ascertained, and no pilots. A strange vessel approaching almost any harbor, that of Boston, for instance, with imperfect charts, without a description of the channel, and without a pilot, might carry away the impression, that it was a very difficult harbor to make. What would the navigation of the *Mersey*, and the entrance to the port of *Liverpool* (the greatest centre of navigation) be, without any of the facilities alluded to? On this subject, I cannot but refer the committee to the statements made, and the authorities collected, by Mr. Baylies, of *Massachusetts*, in his report from a Select Committee on this subject, at the commencement of the first session of the nineteenth Congress. Whatever the difficulty might be, it was well remarked by Mr. Baylies, that it would turn to the advantage of the United States. Possessing the superiority of the local knowledge of the harbor, our small trading ships would find in it a secure retreat from foreign vessels of war, less acquainted with the entrance and less able to cross the bar. It will also be recollected, that all the objections made apply to the mouth of the *Columbia* River, and that *Port Discovery*, a degree or two further to the north and equally within our rightful limits, is universally admitted to be one of the best ports in the world. And even the mouth of the *Columbia* River, with all the difficulties and hazards of its entrance, is the regular inlet of the supplies, and outlet of the peltries of the region drained by the *Columbia* and its northern branches. The trade is as regular as any in the world. Neither is the climate as ungenial and dreary as it has been represented, or as gentlemen might infer from the high northern latitude. There is, on the contrary, no doubt that it is from six to ten degrees milder than the climate

of the same parallel of latitude on the eastern coast of the continent. It is a fact, almost too familiar to be repeated, that, other things being equal, such is always the case on the western side of a continent, compared with the eastern. The island of Great Britain, for instance, portions of which enjoy an exceedingly mild climate, are comprehended within the same parallel as *Labrador*, one of the most inhospitable regions of the globe. The mouth of the *Columbia* River is very nearly in the latitude of the southern portion of the Gulf of *St. Lawrence*; and while, from these latter waters, proceed the enormous mountains of ice so dangerous to the navigation of the Atlantic coast, when they have been carried down to a lower latitude, the thermometer, it is said, rarely descends below the freezing point, at the mouth of the *Columbia*. The writer to whom I have alluded above, makes the following remark:

"From the time of our arrival on the *Columbia* River, we had expected that the winter would be about as rigorous as that to which we had been accustomed in the same latitude. But we were soon undeceived. The mildness of the climate did not allow us to bring fresh meat from *Wolamat* to *Astoria*."

On a subsequent page it is observed:

"During three years that I passed at the *Columbia* River, the cold scarce ever went below the freezing point, and I do not think the heat ever rose above seventy-five or seventy-six degrees."

When we recollect that, in the same latitudes, on the eastern side of the continent, a long and intensely cold winter is followed by a short summer, during a part of which the thermometer sometimes rises above the one-hundredth degree, we must admit that, in this respect, the region in question is favorably circumstanced. The rainy season, instead of lasting six months, as I think it has been said in this debate to do, is said by this author to prevail from the beginning of October to the end of December.

In regard to the fertility of the soil, a considerable diversity of statement seems to exist. The gentleman from *Missouri*, (Mr. *BATES*), on the strength of respectable authorities, had represented it as a region of almost unexampled sterility. Gentlemen who will turn to the reports of the Select Committee, in 1826, will there find representations, seemingly authentic, of an opposite character. The truth, no doubt, as to the general character of the country, will be found in a medium between the two accounts, and either account is probably correct, in reference to particular parts of these regions—the summits of mountains, the precipitous banks of rivers, and meadows overflowed by the tide, and of course unfit for cultivation. On the contrary, we have the best information that extensive valleys and tracts of level land, and some of the islands in the *Columbia* River, are well wooded, or otherwise evidently fertile. The writer whom I have already quoted, mentions some facts, from which we are authorized

to infer that there is, in portions, at least, of the country, a soil which, under such a climate as we know to exist there, must be abundantly adequate to the purposes of husbandry. Thus, he says:

"The surface of the soil in the valleys consists of a stratum of five or six inches of dark vegetable earth, resting on another of gray earth, extremely cold."

This, certainly, will not compare with those regions of the United States which possess a vegetable soil of several feet in depth; but in New England, I believe, the farmers would very generally compound for six inches of vegetable soil, let the sub-soil be what it would. It is true, as was stated by the gentleman from Missouri, (Mr. BATES,) and as is also stated in the work of Franchere, that Mr. Astor's party were not very successful in their agricultural attempts. Of the vegetables and seeds which they planted, nothing came to maturity but radishes, turnips, and potatoes. The turnips were of prodigious size: one of them was found to weigh over fifteen pounds. From the failure of their garden, Mr. Franchere draws the inference that the soil along the banks of the Columbia was not adapted to the purposes of husbandry. It would seem more natural, however, to ascribe this failure to a want of agricultural skill in the party; to their occupation in other pursuits; or to their having chosen a garden spot ill-adapted to that object. At all events, in a mild climate, it is not possible that a soil, covered with various kinds of forest trees which we know to exist in this region, should not also admit most of the other vegetable products of the temperate zone.

The general aspect of the country on the banks of the river is unquestionably that of fertility and beauty. Mr. Astor's party on arriving in the month of March, found the season forward. Speaking under date of the 12th April, Mr. Franchere says:

"The Spring, ordinarily late in so high a latitude, was already far advanced. The leaves had begun to appear; the earth was covered with verdure; the weather was superb, and all nature was smiling."

No doubt, as this author presently states, the long confinement of the party, in a wintry voyage around Cape Horn, made every thing appear doubly beautiful. They were last, however, from the Sandwich Islands. In describing an excursion subsequently made into the interior, he uses this language:

"Our guide made us enter a little river, on the bank of which we found a suitable place to encamp, under the oaks, and amidst flowers. Ascending the river the next day, we found a village, the most beautifully situated in the world, in a verdant plain, covered with every species of flowers, and enclosed by superb groves of oak. The freshness and beauty of this spot, which nature seemed to have adorned and enriched with her best gifts, contrasted in the most striking manner with the poverty and filth of its inhabitants, and I regretted that it had not fallen to the lot of civilized men."

I have gone into these references and citations, because no printed source of information seems more authentic than that from which they are taken; and because it seems to prove that, though the region watered by the main stream, the Columbia, is probably not one of extraordinary agricultural promise, it must be very far removed from that general state of desolation and sterility in which it has been described.

Mr. BATES, of Missouri, said that, many pointed allusions having been made, during the debate, to the observations which he had made on a former day, he should once more trouble the House for the purpose of offering a few words in explanation. It was entirely unnecessary to enlarge on the importance of the subject, for he would tell them to look at the map, and they would see that the bill proposed an extent of country almost as large as the whole of the old thirteen States; and comprised of regions, many parts of which, if inhabited at all, were inhabited by savages. Much has been said of the frequent recurrence of murders by the Indians; but he must say, that, though no man could deplore these melancholy events more than he did, (and he had cause to deplore them, many persons with whom he had been acquainted having at various times been massacred by them,) yet, nevertheless, he saw nothing to be surprised at in the circumstance. Many citizens had been recently killed by the Pawnee Indians, on the road between the Santa Fe and Missouri, close upon the frontiers of that State; why then feel amazement that such atrocities were perpetrated at a distance far removed from the reach of the arm of justice? And how could that House obviate the possibility of future occurrences of that description? What moral effect could their legislation upon the subject be attended with? Could it extend a salutary control over the unshackled minds and unshackled bodies of those wild barbarians? Certainly not.

There was another circumstance which deserved their grave and serious reflection, before they could arrive at the necessity of the bill. Most of those lamented events had been produced by the agency of causes which operated equally over all human nature—robbery was the motive. The irresistible temptation offered to those rude children of the forest to possess themselves of the property of the traders, was the motive of the destruction of many of the whites who perished in those regions. The gentleman from Virginia (Mr. FLOYD) had alluded to the circumstances attending the loss of men attached to Gen. Ashley's party. That gentleman was a personal friend of his, and he was well acquainted with all the circumstances. Two of his men, who commanded small parties of fifteen or twenty individuals, were surprised by the Indians, and with the exception of one hunter, who was engaged at a distance in preparing breakfast for his companions, all massa-

JANUARY, 1829.]

*Occupancy of the Oregon River.*

[H. OF R.]

cred. The inducement to this horrid slaughter was the valuable cargo of furs, to the amount, he understood, of more than twenty thousand dollars, with which they were then returning from the country beyond the Rocky Mountains. It was an incontestable fact which, it would be seen, bore strongly on the question before the House, that more property was lost, and more lives were sacrificed, in one year, in the city of London, or even in the city of Paris, (the latter of which great cities bore no proportion to the former in the enormity and number of its crimes,)—it was, he said, demonstrable, that robbery and assassination were more frequent and prevalent in those two great capitals of the most powerful nations of Europe, England and France, (the latter of which, in particular, had always been celebrated for the unequalled vigilance of its police,) than in the wildest and most desolate regions of the North American part of the continent. Then why (he asked) should it be adduced as an argument in favor of that bill, that the measures proposed by it would, in the event of its being carried into execution, put a final termination to the excesses of those miserable and benighted savages? Mr. B. then referred to the statement of the individual from Montreal, and of Mr. Wilson P. Hunt. They might be true, said he, to a certain extent—but they were, if taken on the whole, delusions—not intentional or wilful delusions, he firmly believed. He, himself, might suppose, or even go near to admit the fact, that the valleys were beautiful in appearance; clothed with verdure; smiling with the earliest productions of Spring; perhaps, as the gentleman from Massachusetts had observed in his quotations, enlivened with the brightest of flowers, and irrigated by the most crystal of waters. But what was to be founded upon such bases? The bounty of nature in those regions was perfectly illusory. The excellences of soil and climate which he had feebly attempted to describe, and which certainly were confined to the raising of esculent roots, were limited in their extent, transitory in their nature, and brief indeed in their duration. Those valleys, of which so much had been said, were annually inundated—in the month of June they were invariably, as he had before stated, submerged in deep water, arising from the melting of the snow. The House should not confound that question with matters of commerce, with which it had no necessary connection, and thereby give a factitious importance to a subject in his opinion altogether worthless. After some further observations, Mr. B. said he cordially concurred in the propriety of diminishing the British influence over the Indians, with whom the citizens of the United States were continually in contact. But how was that to be done? Why, let them put an end to the intercourse carried on between the British and the Indians across the Canadian frontiers, and then that House and the country would hear no more of murders perpetrated by savages, armed with

British rifles of recent manufacture—with rifles bearing on their locks the stamp of 1824. To return to the question before them. Let the House take the pains to collect the necessary information, before fixing upon a permanent basis their relations with a people comparatively unknown, and certainly wild, uncivilized and barbarous. Let them not establish a precedent, which, in after times, might be followed, to the destruction of the republic. In the course of those convulsions and revolutions to which, it appeared probable, their neighbors on the southern part of the continent would have to pass through, the ambition of the United States—if they might learn from the experience of past ages, even republics were ambitious—would, it was within the compass of human probability, lead them to look to a farther and wider extension of their power. Was there no such place as the island of Cuba—an island lying off the Gulf of Mexico, commanding the *debouché* of the Mississippi, and being, therefore, the key of the whole trade of the West? Were there not such fair domains to grasp at, as some desirable parts of Mexico and Columbia? He begged the House to reflect upon such things; to take into their most discreet and grave consideration the importance of that question, and the momentous consequences which might result upon it; and then to say collectively to the nation, and individually to their constituents, whether the passage of that bill would conduce to the interests of the Union.

Mr. TAYLOR said he had no desire to undervalue the territory in question, although the most authentic accounts concerning it, which he had been able to examine, induced him to believe it widely different from the "terrestrial paradise," which it had been represented by the writer introduced by the gentleman from Massachusetts, (Mr. EVERETT.) The information communicated to this committee by the gentleman from Missouri, (Mr. BATES,) was derived from sources of great respectability. It was sufficient, at least, to teach us caution; to send explorers before we take military possession of the country by the erection of forts. But, admitting it to be a good country, capable of rewarding the industry and enterprise of our traders, does it follow that we ought to erect forts and garrison them with troops? What is our actual situation in regard to this territory? The treaty of 1818, between the United States and Great Britain, failed to define the limits between the two Governments. Both claimed title to it, and to prevent disputes, it was agreed that it should remain free and open to the citizens and subjects of the respective powers for ten years. That provision has recently been renewed for an indefinite time, reserving to each Government a right to terminate it by giving twelve months' notice. Until such time, neither party is entitled to exclusive possession. Now, I ask, what possession can be more exclusive than that which consists in building

forts with our national treasure, and garrisoning them with our national troops? I view this matter (said Mr. T.) very different from the defences erected by traders, to protect them in their business of trapping and hunting, against the violence of savages or rivals. Whatever may be the relative rights to this country, of the United States and Great Britain, so far as present possession is concerned, we have agreed to be tenants in common. No act can be rightfully done by one party, which may not with equal propriety be done by the other. If we may erect a fort on the Columbia River, Great Britain may do the same. The words of the treaty apply to every part of the territory. I pray your attention to the phraseology:

"It is agreed that any country that may be claimed by either party, on the Northwest Coast of America, westward of the Stony Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open to the vessels, citizens, and subjects, of the two powers, it being well understood that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country, nor shall it be taken to affect the claim of any other power or state to any part of the said country; the only object of the high contracting parties, in that respect, being to prevent disputes and differences among themselves."

Do gentlemen agree that Great Britain has a right to build a national fortress on the south side of the Columbia, and to garrison it with British troops? No, they do not. They protest against it. They talk of national honor, and defending our title to the last extremity. But they seem to forget that the question of title is in abeyance, if I may so speak, and must remain so while the treaty is in force regulating the possession. I compare this territory to a waste or open common, lying between two manors. The proprietors of each claim title to the whole; they attempt to agree on a division; various propositions are made and rejected; and finally it is agreed to occupy jointly, for the present, reserving a right to each, whenever he shall think proper, on reasonable notice, to dissolve the joint possession, and enforce his separate title in his own way. If during the continuance of this agreement, either party should enclose a portion of the common for his separate use, or strengthen himself in its possession, so that he could hold out against right, if the title should be adjudged in the other, in my opinion he would be a violator of the compact. In this, in our thrifless haste to colonize this *ultima Thule* of business, I think we are beginning at the wrong end of America—nay, not of America—but of the habitable earth; we seem to overlook the natural order of things. If the treaty is found to be injurious to the United States, nothing is easier than to get rid of it. A short notice to the British Government will enable us to take our own

course in this matter, free, at least, from the imputation of bad faith. Suppose, however, the treaty to be set aside, and, confident in our title to the country, we determined to erect forts for the purpose of defending our citizens against aggression; what protection could a fort at the mouth of the Columbia afford to traders and trappers, four or five hundred miles distant, in a rugged and almost unpassable wilderness? Surely none, either against a savage or a British rival. Avarice and revenge, as heretofore, would continue to perpetrate deeds of blood, and find impunity in the deep recesses of the forest. Is it wonderful that murders are committed in the Indian country? Who does not know with what deadly hate the tread of a white hunter is heard by the Indian watching his traps? The deer and the buffalo fade away before the march of civilization, and the hungry savage, turning his back on the bones of his fathers, vexed by the ploughshare of his abhorrence, directs his indignant steps towards the setting sun.

Mr. CAMBRELENG replied to his colleague, who inquired how a military post at the mouth of the Columbia could protect our traders hundreds of miles in the interior; how were they cut off? that it was by the secret agency of the Hudson Bay Company. Establish your posts in the neighborhood of Fort George, and our traders will not be missing. They will go in perfect security, from the mountains to that post, whenever the Hudson Bay Company know that there is a power at hand to protect them against the authors of such atrocities. Too much had been conceded to Great Britain in the debate; even more than she herself pretended to claim. The country, it was true, was, by the treaty, "free and open" to the traders of both nations; but the rights and claims of both parties were not changed in any manner whatever; our right to possession, which carried with it the right to establish military posts to prevent massacres in that region; and her mere claim, which gave to Great Britain no right whatever to establish a garrison, or place a cannon, within the boundaries of that country, the possession of which she had formerly conceded to the United States

WEDNESDAY, January 7.

#### *Slavery in the District of Columbia.*

The question recurring on the motion of Mr. WICKLIFFE, to strike out the preamble to the resolution offered by Mr. MINER, on the subject of slavery within the District of Columbia—

Mr. MINER continued his remarks, cut short yesterday. Mr. M., in commencing his speech, observed that, as doubts had been expressed of the correctness of the allegations set forth in the preamble, it became his duty to the House to show that they were well founded. His purpose in presenting the matter in this form was, to arrest the attention of the House, by



JANUARY, 1829.]

*Slavery in the District of Columbia.*

[H. OF R.]

concentrating, in the narrowest compass in his power, some general principles and striking facts, bearing upon the subject. In the first place, (said Mr. M.) I have set forth the constitutional power of Congress over this District. On this point, I suppose there can be no difference of opinion. In article 1, section 8, of the constitution, it is declared that Congress shall have power "to exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States." The words are full, clear, and explicit. The power extends to "legislation in all cases whatsoever." We, therefore, are the local as well as general Legislature here. Maryland has no longer any authority; Virginia has no longer any legislative power within the District. If evils exist, we alone can remedy them. If injustice and oppression prevail, we are alone responsible.

And here (said Mr. M.) I would most earnestly impress upon the House, that those who suffer evils which they alone have the power to prevent, are accountable for these evils. The legislature that permits bad laws to remain in force, is not less responsible, before God and the world, for the injustice that results from them, than the legislature that enacts unjust laws, or the Government that perpetrates injustice. I am aware, sir, that the subject of slavery is one of great delicacy, exciting strong feelings whenever it is mentioned; but it exists here, and exercises a large influence in the District; yet, since the Federal Government was established in this place, it has been almost wholly neglected. Maryland, in the liberal spirit of the age, has softened the harsher features of her laws in respect to this class of persons. But the ameliorating influence in her statutes extends not within the limits she has ceded to us. The code of Virginia, I believe, has undergone salutary modifications. Our legislation has left the subject where we found it nearly thirty years ago. Gentlemen from the South did not feel it to be their duty to move in the matter; gentlemen from the north, seeing it created so much excitement whenever mentioned, have passed it by. In consequence of this neglect, as I shall show you, have grown numerous corruptions, leading to cruelty and injustice that ought no longer to be tolerated.

And here permit me to remark, sir, that the extreme sensitiveness supposed to exist whenever slavery is mentioned, ought not, in my judgment, to prevail. It is a great political interest in the country, which the prescient eye of the statesman cannot fail intensely to regard. Confining myself to this District, slavery exists here, and while it exists, must be regulated. Sooner or later it must become the subject of our legislation. Now, to my mind, there is nothing more clear than this, that every subject having a broad political bearing, or which

it is our duty to regulate by legislation, ought in these halls, consecrated to the freedom of debate, to be spoken of by members freely, familiarly, and without even the apprehension of giving pain or offence. Certainly this, like every other matter, should be discussed in a suitable temper, and with a proper deference for the opinions, and delicacy for the feelings, of those who entertain different sentiments. As it regards slavery and the slave trade, as they prevail within this District, having examined the subject with care, having visited your prisons and other scenes of wretchedness, as one of the local legislature, I have felt it my duty to bring the subject to your notice, in a manner best calculated to awaken your attention to the evils that exist.

Among the allegations in the preamble, are these: That slave-dealers, gaining confidence from impunity, have made the seat of the Federal Government their head-quarters for carrying on the domestic slave trade; that the public prisons have been extensively used for carrying on the domestic slave trade; and that officers of the Federal Government have been employed, and derived emoluments, from carrying on this traffic. By papers furnished me by the keeper, it appears that there were sent to prison for safe-keeping, that is, as well understood, for sale, and imprisoned as runaways:

	Safe keeping.	Taken up as runaways.
In 1824, -	81	52
1825, -	124	58
1826 and 1827, 156	-	101
1828, -	91	79
	<u>452</u>	<u>290</u>

Debtors, and persons charged with criminal offences, of course are not included in this statement. So that it would appear that, in the last five years, more than four hundred and fifty persons had been confined in the public prison of the city—a prison under the control of Congress, and regulated by its laws—for sale, in the process of the slave trade. Such (said Mr. M.) is not the intention for which the prison was erected. Pennsylvania, so far as she is concerned, and her means are appropriated to repair and keep up the prison, I am confident in saying, does not, and never has, intended that it should be used for this purpose. On a former occasion, duty led me to make some statements respecting this matter, before the House, which it may be proper to bring to mind. Visiting the prison in 1826, and passing through the avenues that lead to the cells, I was struck with the appearance of a woman having three or four children with her, one at the breast. She presented such an aspect of woe that I could not help inquiring her story. It was simply this: She was a slave, but had married a man who was free. By him she had eight or nine children. Moved by natural affection, the father labored to support the children, but, as they attained an age to be chil-



ble in market, perhaps ten or twelve, the master sold them. One after another was taken away and sold to the slave-dealers. She had now come to an age to be no longer profitable as a breeder, and her master had separated her from her husband and all the associations of life, and sent her and her children to your prison for sale. She was waiting for a purchaser, and seemed to me to be more heart-broken than any creature I had ever seen. I am free to say, sir, and I would appeal to every gentleman who hears me, to say, if it is proper that the public prisons under our jurisdiction should be used to carry on a traffic which exhibits scenes like this. Of the four hundred and fifty others I know nothing. I see no reason to suppose that there were not many cases of equal cruelty. Of the two hundred and ninety committed as runaways, many were delivered to their masters; some were sold for want of proof that they were free; and some proved their freedom, and were discharged. It seems to me a hardship, that persons born free in New York, Pennsylvania, or elsewhere, who perhaps never thought of a certificate of freedom, should, without any charge of crime, if they come within this District, be thrown into prison. Some proof, at least, ought to be made, raising a presumption that they are runaway slaves, before they should be deprived of personal liberty. A free man, poor, friendless, and ignorant, so arrested and confined in a cell of little more than ten feet square, would have but slight chance of asserting his rights. Five that were committed in 1826-'7, without any proof of their being slaves, were sold for their jail fees and other expenses. I could wish, sir, we knew what they sold for, and what became of the money. It will be seen, on a moment's reflection, how strong the motive, on the part of the slave-traders, and those who find it their interest to aid them, to seize upon persons who come into the District, to confine them closely in prison, to intercept their letters, to permit them to be sold, and to buy them in. The system naturally leads to fraud and injustice; in some instances to great cruelty. In August, 1821, a black man was taken up and imprisoned as a runaway. He was kept confined until October, 1822—four hundred and five days. In this time, vermin, disease, and misery, had deprived him of the use of his limbs. He was rendered a cripple for life, and discharged, as no one would buy him. Turned out upon the world as a miserable pauper, disabled by our means from gaining subsistence, he is sometimes supported from the poor house; sometimes craves alms in your streets. I cannot think that these things ought to be so. They appear to me as incompatible with our duty, and the interests of the District, as they are contrary to the principles of justice and the rights of humanity. For their services, it cannot be supposed that the Marshal, and his deputies, the keepers of the prisons, go unrewarded. They are, I take it, fed-

ral officers, deriving their powers from the Federal Government. What is the amount of their fees and their perquisites, I have no means of knowing. Suppose fees and commissions on each person, of twenty dollars—that would, on  $452 \times 20 = 9,040$ —upwards of nine thousand dollars in five years. Half that sum would be something considerable. Double this amount, if the prison at Alexandria should yield as much more, would be a large sum. The same amount on the persons imprisoned as runaways would make a large addition to their receipts. If a free man is sold for jail fees, if those fees amount to fifty dollars, and he sells for three hundred, does the Marshal retain the balance of three hundred, or does it go into the public treasury? I see no such item in the account of receipts. I mean not, by any remarks I make, to impeach or cast a reflection upon the Marshal, or any officer under him. The Marshal I have not the pleasure to know, and have no intention to censure. The system is, I presume, as he found it. The system is ours; we are responsible; and if there is blame, it rests mainly at our doors. Of the keeper of the prison, I am bound to say that his deportment has been uniformly correct, so far as it has come to my knowledge. While he is faithful, he is yet humane. Since my remarks on a former occasion, the prison and its discipline appear to be much improved, and the miseries of the wretched inmates alleviated.

I have another case of hardship (said Mr. M.) to bring to your notice—a man was taken up as a runaway, and advertised for sale. He protested that he was a free man. No proof to the contrary appeared. As the time of sale approached, a good deal of interest was excited for him, and two respectable citizens interposed in his behalf. They asked the delay of a short time, that the rights of the man might be ascertained. They went so far as to offer security for the payment of the fees, if the sale could be delayed. But I will read the evidence of what I state:

DISTRICT OF COLUMBIA, }  
Washington County, } ss.

Appear before me, a Justice of the Peace in and for this county, Ezekiel Young and Josiah Bosworth, two respectable witnesses, and make oath, in due form of law, that, in the last summer, they were at the jail of the county of Washington, in the said District, in behalf of a black man called James Green, who stated that he was free, and could prove his freedom, and had written on for the purpose: That they did importune with the Deputy Marshal of this District to postpone the sale, and offered security for the fees; yet the said Deputy Marshal said he could not postpone the sale. He was then sold to a man who acknowledged himself a slave-dealer, but said he would continue the slave here a few days, but did not. He was sold without any limitation of time of service, and no security was required of the slave-dealer to retain him in the District.

Given under my hand and seal, this 28th January, 1828. JNO. CHALMERS, J. P. [L. s.]

JANUARY, 1829.]

*Slavery in the District of Columbia.*

[H. OF R.]

So the man was sold, and sent off by the slave-dealers into hopeless bondage, though probably having as much right to freedom as we have. Will any one doubt but our laws need revision? Can any one who hears me question but that this whole matter needs to be looked into with a searching eye? If this event had happened in a distant country, how strongly would it have affected us! There is, in the public prints, an advertisement of a woman as a runaway, and that she will be sold for her jail fees. She is a yellow woman of about nineteen. She seems intelligent, and to have been well brought up. Her story is, that she is entitled to her freedom at twenty-five; but that her present master, who is a slave-dealer, is trying to make her a slave for life. In this case, I do not think the confinement is intended to aid him. But it will be seen in a moment that when the subject passes by unheeded, a dealer, owning a servant who has two or three years to serve, may cause him to be arrested as a runaway, let him be sold for jail fees, have a trusty friend to buy him in, and thus convert a servant for a term of years into a slave for life. A more expeditious mode of proceeding, by which persons having a limited time to serve are deprived entirely of their rights, is thus: They are purchased up at cheap rates by the slave-traders. They remove them to a great distance. It will be easily seen how small the chance that such persons would be able to preserve the proofs of their freedom, and how little would their protestations be heeded without proof. They are carried where redress is hopeless. Thus the slave-trade, as it exists, and is carried on here, is marked by instances of injustice and cruelty, scarcely exceeded on the coast of Africa. It is a mistake to suppose it is a mere purchase and sale of acknowledged slaves. The District is full of complaints upon the subject, and the evil is increasing. So long ago as 1802, the extent and cruelty of this traffic produced from a Grand Jury at Alexandria, a presentment, so clear, so strong, and so feelingly drawn, that I shall make no apology for reading the whole of it to the House. [Here Mr. M. read the following presentment of the Grand Jury:]

*"January Term, 1802.*

"We, the Grand Jury for the body of the county of Alexandria, in the District of Columbia, present, as a grievance, the practice of persons coming from distant parts of the United States into this District, for the purpose of purchasing slaves, where they exhibit to our view a scene of wretchedness and human degradation, disgraceful to our characters as citizens of a free Government.

"True it is, that those dealers in the persons of our fellow-men collect, within this District, from various parts, numbers of those victims of slavery, and lodge them in some place of confinement until they have completed their numbers. They are then turned out in our streets and exposed to view, loaded with chains, as though they had committed some heinous offence against our laws. We consider it a grievance, that citizens from distant parts of the

United States should be permitted to come within this District, and pursue a traffic fraught with so much misery to a class of beings entitled to our protection by the laws of justice and humanity; and that the interposition of civil authority cannot be had to prevent parents being wrested from their offspring, and children from their parents, without respect to the ties of nature. We consider those grievances demanding legislative address; especially the practice of making sale of black people, who are, by the will of their masters, designed to be free at the expiration of a term of years, who are sold, and frequently taken to distant parts, where they have not the power to avail themselves of that portion of liberty, which was designed for their enjoyment."

The National Legislature were too much engaged, or from other causes did not interpose, and the slave trade continued to increase in extent and enormity. In 1816, a distressing event, which created great excitement in the city, occasioned a movement in Congress in respect to the matter. [Mr. M. here read an extract from the *Journal of the House*.]

"On motion of Mr. Randolph,

"Resolved, That a committee be appointed to inquire into the existence of an inhuman and illegal traffic in slaves, carried on in and through the District of Columbia, and report whether any, and what, measures are necessary for the putting a stop to the same."

If correctly informed, the immediate cause of the excitement was this: A woman, confined, among others, in the upper chamber of a three-story private prison, used by the slave-dealers in their traffic, was driven, by sorrow and despair at the idea of being separated from all that she held dear, to throw herself from the window upon the pavement. She was shockingly mangled, and lingered a long while in misery. I do not wonder that, in a humane and Christian community, such an exhibition should create excitement. It does not seem to me that the laws of Congress ought to cherish, or even permit, a system within this District, naturally productive of such scenes. This account shows the horror of this traffic, and from this we may infer the cruelty that is hid from us in those secret repositories of misery. There are several of these private prisons within the District—how many, I know not; but, from the information given me, I think the feelings of the House would be touched, could they see the cells, the fetters, and the chains they contain, without even a view of the victims that wear them. I hold some account of one of those prisons in my hand, said Mr. M., furnished me by a friend. I cannot read it without mentioning the names of several persons, and, as I wish to give neither pain nor offence to any one, in any thing I say, I will only advert to the matter generally.

In a series of essays published in a respectable print in the District, in 1827, this subject was treated of. I know of no motive for exaggeration. Published on the spot where the facts are known, it is fair to presume the pic-

ture of the slave trade, as it prevails in the District, is true to the original. Here Mr. M. read from the Alexandria Gazette of June 23, 1827, the following paragraphs:

"Some years ago," says our informant, "a colored woman, who had always been treated with kindness by her master, was sold by him to a person in this neighborhood, in order that she might be near her husband, who was also a slave. In the course of a few years she changed owners several times, and at length fell into the hands of the slave-traders, who were making up a company for the southern market. When these tidings were communicated to her, and she found that she must leave forever all the objects of her affections, to endure a life of misery in a distant land, she could not support the anguish it occasioned, and fell lifeless to the ground.

"Scarcely a week passes without some of these wretched creatures being driven through our streets. After having been confined, and sometimes manacled, in a loathsome prison, they are turned out in public view, to take their departure for the South. The children, and some of the women, are generally crowded into a cart or wagon, while the others follow on foot, not unfrequently handcuffed and chained together. To those who have never seen a spectacle of this kind, no description can give an adequate idea of its horrors. Here you may behold fathers and brothers leaving behind them the dearest objects of affection, and moving slowly along in the mute agony of despair; there the young mother sobbing over her infant, whose innocent smiles seem but to increase her misery. From some you will hear the burst of bitter lamentation, while from others the loud hysteric laugh breaks forth, denoting still deeper agony.

"The District of Columbia is now made the depot for this disgraceful traffic."

This traffic, and the views it exhibits, I beg the House to be assured, are as offensive to the people of the District as they are unjust in themselves, and impolitic in us to countenance. Can it be supposed otherwise without a reproach to the good sense and moral sensibility of its citizens? But the slave-dealers feel themselves secure. They do not dread any expression of your displeasure. These scenes have been exhibited here by the slave-dealers for nearly thirty years, under your eye, and Congress has not moved to arrest their course. Your silence gives sanction to the trade. If an evil, you alone can correct it. If you take no steps to correct it, does not your silence imply acquiescence, if not approbation? Is it then strange that the slave-dealers should gain confidence from impunity, and make this their head-quarters for carrying on the domestic slave trade? Sir, this is made the great market for the sale and purchase of human flesh. It is carried on by the sanction of our permission. I have said that the people of the District are opposed to the continuance of slavery here. I had at the last session of Congress the honor to present a petition, signed by more than one thousand respectable citizens of the ten miles square, setting forth the evils that exist, and praying

for the gradual abolition of slavery within the District.

To give the House a just view of the actual state of things here, (Mr. M. said,) he would read an advertisement from the public prints of this city. It will show, not only the openness with which the slave-dealers proceeded, but it will also show that the sale of persons, men and women, at public auction, was a common practice, warranted by our laws, and permitted by the Federal Legislature. [Here Mr. M. read the following advertisement, published in this city.]

"We will give cash for one hundred likely young negroes of both sexes, between the ages of eight and twenty-five years. Persons who wish to sell would do well to give us a call, as the negroes are wanted immediately. We will give more than any other purchasers that are in market, or may hereafter come into market.

"Any letters addressed to the subscribers, through the post-office at Alexandria, will be promptly attended to. For information, inquire at the subscribers', west end of Duke Street, Alexandria, D. C.

'Dec. 15—w3m FRANKLIN & ARMPFIELD."

Aside from the injustice and cruelty to individuals, practised under the laws as they now exist, permit me (said Mr. M.) to consider the subject in a more enlarged and national point of view. We are acknowledgedly the principal Republic on the globe. Justice and equal rights are professedly at the foundation of our Government. The Congress of the United States, and their proceedings, are viewed with solidity by intelligent men throughout the world. Despotism must look with keen desire for our failure; the friends of civil liberty look with not less anxious hope for our prosperity and success. If we fail, the great cause of freedom will be lost forever. As we succeed, the sacred principles of the rights of man gain strength and will extend their influence. The people have confided to Congress exclusive legislation over ten miles square—a little spot from which local jealousies and sectional rivalries should alike be excluded. Within this limit the wisdom and the power of the Republic may operate with the most unrestricted freedom. Here, it might fairly be expected, should be exhibited to the nation and to the world a specimen of the purest laws and the most perfect legislation. Legal injustice and oppression should be unknown within the district. In relation to the moral power of this Government, in regard to the effect, at home and abroad, of our example, it would seem to me that we are called upon by the most weighty considerations to render the laws here as perfect as it is in human power and human wisdom to make them. Suppose a distinguished foreigner, of correct and expanded views, who has listened with interest to the accounts of our republic, and whose mind is imbued with the liberal principles of the age, is resolved to visit us. He leaves the despotical shores of the European continent with delight. He prays for

JANUARY, 1829.]

*Occupancy of the Oregon River.*

[H. OF R.]

impelling gales to waft him to this land of justice and freedom. The ten miles square, where the united wisdom and unrestricted power of the nation operate—with what elastic hope and anxious pleasure does he pursue his way to this city. And what objects are here presented to his view? At one market he meets a crowd; and, as he passes near, behold it is a constable exhibiting a woman for sale, subjected to the scoffs and jeers of the unfeeling! He is selling her for a petty debt, under the authority of the sanction of Congress! Well may he exclaim, "the age of chivalry is indeed gone forever!" To remove the painful impression, he takes up a newspaper of the District, and reads, "cash in the market, and the highest price" for men and women. He walks abroad and sees a gang of slaves handcuffed together, a long chain running between them and connecting the whole—miserable objects of horror and despair, marching off under the command of the slave-traders! What must be his feelings—what his report when he shall return! This District ought to be the best governed in the universe. It is absolutely governed the worst. It would not be going much too far to say, that there is more crime and more misery here than in any other spot of equal extent on the globe. In 1826 and 1827, there were not less than six hundred and thirty-four persons committed to the prison in this city for debt! What a horrible state of things must exist, when, in so small a population, more than six hundred persons, in two years, are deprived of their personal freedom, and degraded by being thrown into jail without pretence of crime. It is shocking! It is appalling! Within the same two years there were no less than three hundred and thirty-four persons committed to this jail for criminal offences. This is independent of those committed at Alexandria: for there are two public prisons in the District. Did anybody ever hear of such a thing in a Christian and civilized country? It would seem to me that such scenes are calculated greatly to weaken the moral power of the Government, and to impair the just respect in which it should be held by the nations of the earth. The reasons which may be supposed to operate in favor of the continuance of slavery elsewhere, do not exist here. The number is not so great as to present any formidable impediment to the extinction of the evil. Here are no rice lands to cultivate: nothing to be done but what might as well be done, and better, by a free white population, than by slaves.

#### *Occupancy of the Oregon River.*

On motion of Mr. FLOYD, of Virginia, the House resolved itself into a Committee of the Whole.

The question was put on the amendment offered on Monday by Mr. TAYLOR, to the amendment offered by Mr. DRAYTON, and decided in the negative.

Mr. INGERSOLL offered the following amendment to that of Mr. DRAYTON:

"And be it further enacted, If any citizen of the United States shall, within the territory or district of country lying west of the Rocky Mountains, south of 54 degrees and 40 minutes north latitude, and north of the 42d degree of north latitude, commit any crime, offence, or misdemeanor, which, if committed elsewhere, would be punished by the laws of the United States; or if any person shall, within such part of the territory or district of country as belongs to the United States, west of the Rocky Mountains, commit any such crime, offence, or misdemeanor, upon the property or person of any citizen of the United States, every such offender, on being thereof convicted, shall suffer the like punishment as is provided by the laws of the United States for the like offences, if committed within any place or district of country, under the sole and exclusive jurisdiction of the United States. The trial of all offences which shall be committed under this act shall be in the district where the offender is apprehended, or in which he may first be brought, and the Superior Courts in each of the territorial districts, and the Circuit Courts, and other courts of the United States, of similar jurisdiction in criminal causes, in each district of the United States in which any offender against this act shall be first apprehended or brought for trial, shall have, and hereby are invested with, full power and authority to hear, try, and punish, all crimes, offences, and misdemeanors against this act; such courts proceeding in the same manner as if such crimes, offences, and misdemeanors had been committed within the bounds of their respective districts."

Mr. INGERSOLL said, we have decided by the vote just announced, that, if any thing is done in regard to the Oregon country, it shall be more than sending a party to explore the territory. He was satisfied with that decision so far as it went: for, from every view he had been able to take of the subject, he was brought to the conclusion, that our interests in that quarter require some further legislation from Congress than the mere sending out an expedition to look at the country, and furnish us with the journal of their proceedings. There was, however, an embarrassment in determining how far we can legislate on this disputed ground, without conflicting with treaty stipulations. He was satisfied that the bill, as reported, would interfere with our existing engagements to Great Britain, and therefore he could not go for it in that shape. The convention so often alluded to, stipulates that the country west of the Rocky Mountains shall remain "free and open" to the citizens and subjects of the two contracting parties, during the continuance of the compact, and neither can recede, without giving twelve months' notice to the other. The erection of a territorial government, therefore, and granting portions of the soil as a bounty to settlers, would be an exclusive occupancy on our part, in the teeth of the treaty. But while he was restrained from going that length, satisfied, as he was, that the title to the country is with us, he was not only willing, but anxious,

that some decisive act should be done on our part, which should indicate our determination not to surrender one particle of our claim—leaving the question of a territorial government to be settled hereafter, when the existing convention would not be in our way. For the present, it is not necessary to advance a step farther than the British have gone; but the obligations of interests and duty require that we should go *pari passu* with them. They have erected, and now maintain, forts for the protection of their traders and hunters. The amendment of the gentleman from South Carolina, (Mr. DRAYTON,) very properly proposes that we should do the same. But they have gone farther than this: they have covered the whole territory with their criminal and civil jurisdiction; and those who resort to it, are amenable to the courts of Canada for all violations of their laws. With this act of the British Parliament before me, (said Mr. I.,) I cannot for one refuse to send our laws along with our citizens, if they choose to go there, any more than I would to protect them by the erection of a fort. It was to meet the British legislation in all its bearings, that he had offered the amendment to the consideration of the committee; and he sincerely hoped we should not give occasion for its being urged upon us hereafter, that we have at this day waived any of our rights to the territory in question, by silently acquiescing in the foreign jurisdiction now exercised there, or by refusing to spread our flag and our laws co-extensive with our rightful claims. It was true that Great Britain did not, in her negotiations with us, claim to apply her jurisdiction farther than was necessary to protect her own subjects; but, on the contrary, disclaimed any other intention, though the language of the act of Parliament was certainly very general, and seemed to be applicable to all persons who might be in the territory. But the amendment he had offered had no such apparent bearing; it was confined to the protection of citizens of the United States, in their property and person. Can Great Britain complain of this? Surely, if the "free and open" intercourse with that territory, guarantied to the British by the convention, in common with ourselves, cannot be made secure to them, without carrying their laws along with their hunting expeditions, we have had abundant evidence, in the repeated murders of our own hunters beyond the mountains, that our citizens require at our hands a corresponding protection. Besides, Great Britain is estopped by her own acts from complaining of our going thus far in our legislation; and more than this he did not ask of the committee, but anything less would be injustice to ourselves.

Mr. I. said he was free to confess, that he never had formed a very flattering picture of the north-west coast of our continent—that is, of its attractions for an agricultural people. He preferred to see it remain a hunting ground, from which our fur-traders can draw some of the treasures that are now monopolized by the

Hudson's Bay Company, rather than see it erected into a sovereign State. But, whatever our preferences may be in this respect, it was our duty to protect our citizens whose enterprise may lead them there, and it was no less our interest to secure the harbor which the mouth of the Oregon offers to our hardy navigators who frequent the coast. He was not anxious to hasten the growth of a new State beyond the Rocky Mountains, for he was aware it would have but few ties, aside from its weakness and independence on our naval power, to bind it to this side of the continent. Its trade, if the country should ever be settled by a permanent agricultural population, as it must be before it can grow into a State, would not probably cross the mountains to come to us, but would naturally seek the waters of the Pacific. For all commercial purposes, India, and the islands of the south seas, would be to a thriving population there what Europe and the Atlantic islands are to us. But although he entertained these opinions still, when the question was put—and turn it as you may, it will come to this, whether we shall surrender this vast territory into the hands of the British, or maintain our own jurisdiction there, he was ready to give a positive and decisive answer. It should not, with his consent, go into the hands of a foreign power. That country once annexed to Canada, with its formidable Indian tribes in the train of the agents of the Hudson's Bay Company, would be to our advancing frontier, what Canada has been in all our Indian wars. Sir, we are not without experience on this subject. The history of our western settlements gives us ample evidence of Indian aggressions, stimulated by the influence of white men within the bounds of Canada. We have felt this hidden influence in all our frontier contests, from the days of the Revolution down to the declaration of the late war with England, or rather to the battle of Tippecanoe, which shortly preceded it. Nor have we since ceased to feel its effects—you felt it to the quick, on the frontiers, throughout the war with England, and you feel it now; yes, in the very territory about which we are told not to legislate, our citizens are shot down by Indians, armed with British rifles. And with these facts staring us in the face, are we to hold back and hesitate, lest we give offence to the British Government, in deciding to protect our citizens by the establishment of a fort, or the extension of our laws into this territory? Let it not be said that the soil of the country is not sufficiently inviting (it was called the other day in debate, a region of "penny-royal") to induce the British to occupy it. To say nothing of the immense fur trade derived from the country, the harbor at the mouth of the Oregon, commanding the upper country, convenient in its position in reference to India, the Sandwich Islands, the new nations bounding on the west coast of our continent, presented sufficient attractions for the colonial grasp of Great Britain. He did not pretend to

JANUARY, 1829.]

*Occupancy of the Oregon River.*

[H. OF R.]

much sagacity in matters of this sort, but he verily believed that not a twelvemonth would elapse after we should abandon our claim to this position, before the mouth of that river would be controlled by the guns of a fortress, manned by our great commercial rival. Is it asked what reason we have to suppose this? The answer will be found in the policy of that nation, which is to plant a colony from her superabundant population, wherever she can penetrate with a fleet. This policy is identified with the immense power which she wields; and will be always pushed to its farthest limits. Small in territory at home, her extensive possessions abroad are towers of her strength in every part of the world. No spot, however sterile, is lost sight of, if it can furnish new facilities to her commerce. She will fortify, at the expense of millions, a rock in the Ocean, if it can be made a safe resting place for her merchantmen, or a convenient rendezvous for her ships of war.

Mr. I. said he would now notice more particularly an objection which was urged yesterday against our establishing military posts in the territory, derived from the third article of the convention of 1818, as renewed in 1828. That article undoubtedly prohibits the exclusive occupancy of either party, and leaves the whole country "free and open" to both. But he did not advocate an exclusive possession, nor does either or all of the amendments proposed contemplate any thing of that sort. We only ask to occupy the country in the same way that the other party occupy it—not to exclude them. But one difficulty lies here: we have hitherto found that it is impossible for our citizens to have a "free and open" intercourse with the territory, unless they have suitable forts for their protection against the surrounding tribes, as well as to make an impression on those more distant, who may occasionally visit them. Without some shelter of this kind, the convention becomes a dead letter to us. If, therefore, we have the rights, which all concede that we have, under the third article of the convention, to an unmolested occupancy co-extensive with that of Great Britain, the instrument which recognizes this right, necessarily implies such an occupancy on our part as is now proposed: for the country, filled with savages as it is, will admit of no other. Taking the article even by itself, there was no difficulty in the case. It should be remembered that we do not propose to send a garrison into the country to drive the British out, but merely to let our own citizens in. If, however, there were any doubts in looking at this clause by itself, those doubts have certainly been removed by the British themselves. They have put both a verbal and a practical construction on the article which has been here interposed, that frees us from all embarrassment in arriving at its true meaning. They have erected and now maintain a chain of posts, extending from Canada to the waters of the Oregon, or Columbia River. But,

it is asked, were their forts erected anterior to, or since, the date of the convention? So far as the argument is concerned, it was no sort of consequence when the forts were built, if they have been strengthened since the date of the convention, and are now maintained, which is not denied. If an occupancy, protected by a military post, is inconsistent with the terms of our engagements, as has been urged, then it was the duty of Great Britain, after signing the article in question, to dismount her guns, and abandon the posts. She did not do it, and cannot now complain of our adopting her own practical construction. But we do not stop here. The British negotiators have admitted to our Ministers that they do not object to our erecting forts. This is abundantly evident in the letters of Mr. Gallatin, of the 2d and 20th of December, 1826, which had been already, in course of the debate, brought more particularly to the notice of the committee. Thus much for the understanding of this subject by the British authorities. How has it always been considered by our own Government? The convention was first formed in 1818, under the administration of Mr. Monroe, and while Mr. Adams was Secretary of State. But so far from their supposing that the establishment of military posts would interfere with the third article, we find Mr. Monroe recommending the measure in 1822, and the present Executive did the same, in his Message at the opening of the nineteenth Congress. The British Government have, therefore, not only told us what their construction of the article is, but they have been fully apprised of our construction of it, by the Executive recommendations just referred to. And yet, with a full knowledge of all that we have contemplated and all that we now propose, that Government renewed the convention with us during the last year, without hinting a syllable of complaint. After this, it is too late to anticipate such objections from that quarter.

Mr. RICHARDSON objected to the amendment proposed by the gentleman from Connecticut, (Mr. INGERSOLL,) because it would be partial and ineffectual for the attainment of its object. For the same reason, he voted against the amendment proposed by the gentleman from New York, (Mr. TAYLOR.) That amendment proposed simply a survey of the Oregon territory. After what has passed in this House, such a measure would be considered as one of a timid and doubtful policy. It would be considered as an admission, in the face of the world, that this Government is doubtful of its right to the territory. And what impression, sir, would such a course of policy make on the Indian tribes and the British citizens of that territory? In that territory, it is estimated that there are at least two hundred thousand Indians. They are supplied with fire-arms, and are under British influence. Emboldened by the timid policy of this Government, and roused to jealousy by causes which could not be traced, they would annihilate at a blow your corps of

engineers, proposed by the amendment to be employed, without any other protection. Such an event would unavoidably lead to war between the two Governments. If this Government should establish military posts, with the admission that this is all that it has a right to do, this measure seems likely to result in war. The British Government now has military posts in that territory, occupying the most favorable positions. Will they give place to posts, to be established by this Government? If the territory be ours, it is better for us, and would be better for the British, that their posts should be at once excluded. Sir, I am opposed, in a case like this, when on all hands the right to the territory is admitted to be ours, to a course that, by its indecision, invites resistance. The original bill seems not to be understood. It proposes a process of measures, indicating a determination of this Government with respect to its course. One section of the bill provides that the President may exercise his discretion with regard to the event of establishing a territorial Government. This would obviate the objection arising out of the existing convention between this Government and the Government of Great Britain. For these general reasons, (said Mr. R.,) I am opposed to the amendments offered by each of the gentlemen.

Mr. DRAYTON's amendment, as amended by Mr. INGERSOLL, was adopted.

The last section was read, which contains the appropriation for the expense of the proposed expedition.

Mr. DRAYTON moved to fill the blank with ten thousand dollars.

Mr. FLOYD objected to this sum as insufficient, and proposed twenty-five thousand dollars; which motion prevailing, the blank was so filled accordingly.

THURSDAY, January 8.

#### *Slavery in the District of Columbia.*

Mr. WILDE moved the previous question.

Mr. BARTLETT expressed a hope that Mr. MINER would consent to withdraw the preamble, and thereby remove the chief cause of objection.

Mr. M. declining to do so,

Mr. WICKLIFFE inquired of the Chair whether the previous question would not supersede the motion he had made for striking out the preamble?

The Speaker replied in the affirmative.

Mr. WEEMS hoped the gentleman from Georgia would withdraw the motion for the previous question, as he felt assured the gentleman from Pennsylvania was desirous of replying to what he had advanced.

Mr. ALEXANDER moved to lay the preamble and resolutions upon the table. Lost.

The hour allotted to reports and resolutions having now expired, the subject was laid over until to-morrow.

FRIDAY, January 9.

#### *Slavery in the District of Columbia.*

The preamble and resolutions on this subject offered by Mr. MINER coming up, Mr. WILDE moved the previous question.

The motion was sustained.

Mr. WICKLIFFE then demanded that the question be divided, and the vote taken first on the preamble, which details the allegations, and then on the resolution itself, which recommends the subject for inquiry by the Standing Committee on the district.

The question was divided accordingly, and The previous question was put and determined in the affirmative.

The main question was then put, upon agreeing to the preamble as modified, and decided in the negative—yeas 87, nays 141.

The question was on the first resolution, and decided in the affirmative—yeas 120, nays 59.

The question on the second resolution was also decided in the affirmative—yeas 114, nays 66.

So both the resolutions were adopted.

#### *Occupancy of the Oregon River.*

The House then proceeded to consider the Oregon bill, with the amendments thereto, as reported by the Committee of the Whole; and the question being on concurring with those amendments, it passed in the affirmative.

The question then being on ordering the bill, as amended, to be engrossed for a third reading—

The yeas and nays were then taken on ordering the bill to its third reading, as amended, and stood as follows:

YEAS.—Messrs. Adams, Samuel C. Allen, Alston, Bailey, Barber, John S. Barbour, Barnard, Barney, Bassett, Bell, Bryan, Buck, Butman, Cambreleng, Carson, Chase, Condict, Daniel, Thomas Davenport, John Davenport, Warren R. Davis, Desha, Drayton, Everett, Findlay, Floyd of Virginia, Floyd of Ga., Fort, Fry, Gale, Green, Gurley, Hamilton, Hinds, Hobbie, Hodges, Holmes, Hunt, Ingersoll, Isaacks, Jennings, Johnson, Letcher, Locke, Lumpkin, Lyon, Marable, Martindale, McKean, McLean, Merwin, Miller, John Mitchell, Thomas P. Moore, Gabriel Moore, Orr, Plant, Ramsey, Reed, Richardson, Sawyer, Smyth, Sprigg, Stanberry, Stevenson, Stower, Sutherland, Thompson, Verplanck, Whipple, Wilde, Ephraim K. Wilson, Woodcock, John C. Wright, Yancey—75.

NAYS.—Messrs. Samuel Anderson, Armstrong, Baldwin, P. P. Barbour, Barker, Barlow, Barringer, Bartlett, Isaac C. Bates, Edward Bates, Beecher, Blair, Brown, Buckner, Chambers, Chilton, Claiborne, Conner, Coulter, Crowninshield, Culpeper, John Davis, De Graff, Dickinson, Dwight, Earl, Garrow, Gilmer, Gorham, Hallock, Hall, Harvey, Haynes, Healy, Johns, Keese, King, Lawrence, Leconte, Lea, Leffler, Little, Long, Magee, Markell, Martin, Marvin, McCoy, McDuffie, McHatton, McIntire, McKee, Mercer, Miner, Thomas R. Mitchell, Muhlenberg, Newton, Nuckolls, O'Brien, Owen, Pearce, Pierson, Polk, Ripley, Roane, Russell, Sergeant, Shepperd, Sloane, Smith, Sprague, Sterigere,



JANUARY, 1829.]

*Land Claims in Tennessee.*

[H. OF R.]

Stewart, Storrs, Strong, Swann, Swift, Taber, Taliaferro, Taylor, Tracy, Starling, Tucker, Vance, Van Rensselaer, Varnum, Vinton, Ward, Washington, Weems, Whittlesey, Wickliffe, Williams, James Wilson, Wingate, John J. Wood, Silas Wood, John Woods, Wolf, Silas Wright—99.

So the House refused to order the bill to a third reading, and it was, of course, rejected.

MONDAY, January 12.

*Land Claims in Tennessee.*

The House resumed the consideration of the bill "to amend an act, entitled 'An act to authorize the State of Tennessee to issue grants and perfect titles to certain lands therein described, and to settle the claims to the vacant and unappropriated lands within the same;' passed the eighteenth day of April, one thousand eight hundred and six"—the question being on the amendment moved by Mr. CROCKETT, as a substitute for the bill, as modified, on the suggestion of Mr. POLK.

Mr. LEA said he was not in the habit of troubling the House with speeches. He had generally made a merit of silence, and endeavored to profit by the statements of others, more experienced and better informed. In local affairs, he always paid particular attention to what was said by those gentlemen who ought, from their situations, to be best acquainted with them. As such had been his course of conduct, and as the pending question was of local character, chiefly interesting to the State of Tennessee, he hoped the House would not consider him obtrusive while attempting to make a few practical remarks. Inexperienced in parliamentary debate, never before having been a member of any legislative assembly, he could not expect to satisfy even himself, and much less others, either as to the manner or substance of what he might say. All that he could hope was, in a very imperfect manner, to make himself so far understood as to remove some erroneous impressions, and thereby contribute something to repel unexpected and unwarrantable attacks on the character and interests of his State. He said he could not be insensible to the many embarrassments arising from the various feelings of different parts of the Union on land subjects. Whenever such a matter came up, it had to contend not only against its own peculiar intrinsic difficulties, but also against a host of almost invincible prejudices, if he might be allowed to call them so, originating in apprehensions of the consequences which might collaterally flow from the adoption of the particular measure proposed. He hoped that gentlemen would give this subject sufficient attention to examine it on its own merits, and as they would desire that others should investigate the local matters in which they might have particular interest. He knew that the question was complicated, and was fearful that it had not been considered as thoroughly as it deserved, even by those who had

been present throughout the discussion. But others had been absent, during part of the time at least, and he would endeavor to progress with his observations in a plain and practical manner.

As the motion was to strike out the whole bill after the enacting clause, and to insert the proposed amendment as a substitute, it became necessary to compare the two propositions; and to do this properly both should be distinctly understood. A brief statement of the substance of each might not occasion a useless consumption of time. The bill is predicated on a repeated application from the Legislature of the State of Tennessee, and conforms with the memorial in providing that the United States lands in that State shall be surrendered to her on account of a deficiency in her common school lands, and to be disposed of by her for the purposes of education. In consequence of agreements long ago made between the Governments concerned, that all the *bona fide* North Carolina land claims should be satisfied from the public lands in Tennessee, a provision was inserted in the bill that all such claims should be satisfied if any existed, although it was believed that none or but very few remained. It has always been the policy of the Legislature of Tennessee, whenever it had the power, to give a preference of entry or right of pre-emption to occupants; and it has already made such a provision, to quiet and secure them, in favor of those who occupy portions of the United States lands in that State in anticipation of the surrender of those lands now solicited, and to take effect in that event; but from abundant caution, and for entire satisfaction, a similar provision, by way of amendment to this bill, was proposed by my honorable colleague, (Mr. POLK,) the Chairman of the Committee who reported the bill; and his proposition was modified, on motion of the honorable gentleman from Kentucky, (Mr. WICKLIFFE,) and then adopted by the House, so as to give those occupants a pre-emption or rather, as nothing is to be paid, a preference of entry, without charge. Under this bill, as it now stands, those occupants would get their lands without any charge. Such is a brief outline of the substance of the bill, as it originally was, and as at present amended. Mr. L. said it was to be hoped, after the insertion of this last most extraordinary provision, that his colleague from the western district of Tennessee, (Mr. CROCKETT,) would withdraw his amendment, and endeavor, to some extent, to harmonize with his colleagues; but he seemed determined, even against greater benefits to his people, pertinaciously to insist upon his own naked and unqualified proposition. And what was it? It would simply give to the occupants, respectively, who were such on or before the first of December last, the same quantities of land that the bill would secure to all who might be occupants by the first of April next; and they would have to pay the usual fees for surveying and for issuing grants to the officers of the State



of Tennessee, who were authorized, in the common way, and at the common rates, to proceed in perfecting their titles, without any directions from the Legislature of that State.

Having thus stated the substance of the bill, and of the proposed substitute, Mr. L. proceeded more particularly to contrast them, and to urge his objections to the latter. He said, without approbating the provisions either of the bill, or of the substitute, as far as concerned the occupants, he could not see any reasonable ground on which his colleague (Mr. CROCKETT) should adhere so inflexibly to his amendment. The occupants seemed to be the objects of his chief, if not only care, and the bill provided for more of them, and on better terms. Why then, should any one cling to the amendment, under a pretence of great zeal in behalf of occupants, when it is loaded with objections, which must ultimately destroy it? One of those objections is, that the amendment makes no provision whatever for the satisfaction of any North Carolina claims, which may remain in the hands of infants, *femmes couvertes*, or any other persons who may be justly entitled to relief. And my colleague, (Mr. CROCKETT,) in his remarks the other day, plainly told the members from North Carolina, that his object was to secure the occupants, in defiance of all stipulations with that State; and this, too, notwithstanding the agreement of Congress that these claims should be satisfied, and the subsequent obligation on Tennessee to do so, out of these very lands. It may be, that no valid claims of that kind yet remain; but, on the other hand, it is possible that some exist, which ought to be satisfied; yet, we have been told, that such pre-existing rights ought to be postponed to these occupant claims, and transferred, of course, to inferior lands. It is plainly submitted to every member of this House to say, if it would be right, while claims exist, to take away the means of satisfying them? Would not North Carolina complain? And if Tennessee should proceed to satisfy the claimants, would not a conflict necessarily arise between them and the occupants? Or, if she should refuse to do so, might not this Government become responsible? Mr. L. protested against being involved in any such unnecessary embarrassments, and then proceeded to another objection, of a character which he could never pass without notice.

According to the amendment, the State officers of Tennessee were to be employed, without consulting her Legislature, in perfecting the titles to these occupants. Is Congress prepared, not merely to refuse the respectful request of a State, as it certainly may, but also to go farther, and employ the officers of that State to do something else directly at war with her application? Shall we call on the Surveyors, Secretary of State, and Governor of Tennessee, to make surveys, and issue grants? He would ask if gentlemen could sanction such a doctrine? Are we to empower the officers of Tennessee to give patents for our vacant lands? Are they

to act under our authority? He understood the republican feeling of that State better than to believe that such a game could be played off on her. What! A Governor of Tennessee to be signing grants under an act of Congress, and that, too, against the known will of his State? He dare not do it. But his colleague (Mr. CROCKETT) had said that he would risk the performance, if his amendment were adopted; that it merely gave permission that the officers might act without saying they should. Mr. L. remarked, that, in making and construing laws, may and shall were often convertible terms. But, suppose those officers should decline to act under such a law, where is its sanction, and what is its penalty? It could not be carried into operation. But again, suppose the Legislature of that State should consider it against her interest to accept the provisions of such a law, and should forbid her officers to execute it, then any man could see what would be the unpleasant consequences. These are not merely idle speculations. He would go farther, and hazard but little in giving his decided opinion, that, even if the officers of Tennessee should manifest a disposition to execute such a law, her Legislature would actually prohibit them. The members, coming from all parts of the State, and considering the interests in those lands general, not local, would not allow the State officers to be employed in acts opposed to the wishes and interests of their constituents. To pass this amendment into a law would be affecting to do some good, but really doing worse than nothing. He never could agree to such a provision himself, nor could he believe that gentlemen, on reflection, would consider it consistent with sound principles. He knew there were instances, in which Congress had attempted to give cognizance of certain matters to State officers, and he knew, too, that contentions had sometimes ensued. He had an opinion, as to the propriety of such attempted investments of power, and hoped that a majority would be opposed to their extension. Let every Government attend to its own concerns, through its own officers; but, above all, let the General Government never be found arrayed in a controversy of local character between the majority of a State on the one side, and a minority on the other, authorizing and inviting the officers of that State to enlist in the contest, in opposition to the public will. Such a policy would be marked with features too familiar and too striking not to be recognized.

Mr. L. urged another objection to the amendment, as a substitute for the bill, on the ground that it made no disposition of the remainder of the lands after satisfying the occupant claims. He would inquire what was to become of the residue? Was it to continue unnoticed, and useless? Or would it not rather pass rapidly into the hands of other occupants? Mr. L. said he had no disposition to censure those who were there at present; and far be it from him to war with occupants anywhere. He had

JANUARY, 1829.]

*Land Claims in Tennessee.*

[H. OF R.]

learned, from his infancy, and by personal observation, to feel for them a becoming sympathy. A large portion of those who had honored him with a seat on this floor had been occupants from the earliest settlement of their country, under circumstances of danger, privation, and hardship, far exceeding any thing known to the settlers of the western district of Tennessee. Yet he accorded with his colleague from that district (Mr. CROCKETT) in many of his sentiments expressed in their favor, and was willing that a reasonable preference, consistently with the just claims of others, should be extended to them, and to all occupants, in proportion to the private difficulties and public advantages attendant on their persevering exertions. He did not contend against occupants, but against the policy of improperly tempting our citizens to become such. Gentlemen who are so sensitive concerning the speedy and cheap disposition of the public lands, ought to reflect on the principles of this amendment, and the consequences which may flow from its adoption. How will this thing operate? If we give lands to the present occupants, without disposing of the residue, at the same time, as they are, of course, generally settled on the best portions, we cannot refuse, next year, to give inferior parts to those who may then possess them. The remaining lands either will or will not be fit for occupation. If not, why should we retain them? And if otherwise, no matter to what extent, ought we to keep them for the mere purpose of making annual donations to those who would be tempted, in the mean time, to occupy them? And if there were lands enough, they would soon be covered by swarms numerous as those of the Egyptian locusts, until the whole would be devoured. Commence this policy once, and there can be no end of it, but with the exhaustion of the means. Can we give the better this session, and refuse the worse next? Consistency would demand a perseverance, with increasing reasons, founded on the inducement to occupancy held out by ourselves, and on the inferiority of the gifts. While the whole country, however small or great, would in time be thus given away, without a cent of profit to the United States, their treasury would be annually drained in making laws on the subject as long as the continuance of this process. Mr. L. observed that, if his colleague (Mr. CROCKETT) looked to ulterior objects he might think it well enough for his district to acquire population at so cheap a rate; and it would be highly gratifying to find that, or any other portion of the State, increasing in population, or otherwise prospering on fair and equal terms; but nearly every other part of the State felt an equal interest in those lands for satisfying a just claim, and it could not be expected that the aggrandizement of one part, at the expense of the others, would be acquiesced in by them. Mr. L. was of opinion, however, that not only the interests of Tennessee, generally, but also the permanent good of the

western district, were better provided for in the bill than by the amendment, with all its consequences. He would now inquire of gentlemen representing new States, if they were prepared to adopt the policy of giving away lands to occupants, present and future? Had they no hopes of ultimately enjoying some benefits from the surrender of the inferior public lands to the States in which they lie? He could not suppose that those States would, on this occasion, abandon their own avowed principles. The bill, as compared with the amendment, was of a character accommodated in some degree to the sentiments of nearly all. While it avoided, on one hand, extravagant prodigality, it exhibited, on the other, some features of liberality.

Mr. CARSON said that, if the decision of the committee had been taken on a previous day, he should have voted in favor of the amendment of his honorable friend from Tennessee, (Mr. CROCKETT,) but he considered it highly fortunate that such had not been the case: for subsequent reflection had fully convinced him that the passage of that measure would be a direct injury to the very persons whom it was intended to benefit. The land in question, which was sought for on the one hand by the State, and on the other by the occupants who had settled upon it, had, it was well known, been ceded by North Carolina, under certain reservations and conditions. The United States was bound to observe, and to cause to be observed, those conditions; and the House should bear them in mind when legislating upon the subject. North Carolina had expressly reserved the right of perfecting all titles to grants of lands made to officers and soldiers of the Continental line of that State, for revolutionary and other services. The amendment, which he had referred to above, went to disturb that compact which he considered ought to be held sacred and inviolable. It was proposed, by that amendment, to give the land to the actual settlers thereon under various conditions, and to vest the right of perfecting the titles thereto in the Governor and the other State officers of Tennessee. He was utterly opposed to the sanctioning of such a proposition by a vote of the House. There were numerous North Carolina warrants for land yet remaining unsettled; many of them belonging to widows and their orphan children, and to minors; and it had from those circumstances been difficult to put their claims in a train of speedy adjustment. Now, suppose the House passed the bill, did not gentlemen perceive what would be the inevitable results? Let them grant the hundred and sixty acres to each occupant; and then, when the holders of the outstanding North Carolina warrants went and advanced their just and equitable pretensions, and laid claim to the lands secured to them by a solemn instrument, and for a valuable consideration, what a wide and frightful field of litigation was thrown open to the citizens of those States. And how was

that litigation to be terminated? Was there a judicial tribunal in the United States, or indeed in the civilized world, that would not immediately decide in any litigated case founded upon such a basis, in favor of the North Carolina claimants? That solemn and binding instrument, the act of cession, expressly provided for the payment of those claims, and unless all law and all justice were alike borne down and destroyed, all the laws of Congress, and all the courts of justice in the Union, could not invalidate its provisions, express and stipulated. Litigation on the most tremendous scale would inevitably ensue, to the impoverishment of the people and the ruin of the settlers on the lands. Let every gentleman, then, who could entertain such an idea, reflect that the most deleterious consequences would flow to the occupants themselves, from holding out to them the prospect of obtaining free and gratuitous donations of the public lands, and in that manner inducing them to settle upon the public domain; thereby sowing a seed which, he repeated, would not fail to produce a most abundant harvest of litigation. He proceeded to express his deliberate and confirmed opinion, that there was no power vested in the United States to abrogate a right secured to a State or a citizen by a conditional agreement, similar to that contained in the act of cession. If the bill did not provide for the rights of North Carolina, or the persons holding her warrants, he had no hesitation in pronouncing it to be his opinion that, under all the circumstances of the case, it was a violation of the public faith, and an infringement on the just rights of the State; yet, even supposing the bill were to pass without providing for the liquidation of all the claims made on account of the North Carolina land warrants, he repeated that the adjudication of every court of law would and must be in favor of the parties claiming, under the express provisions of that act of cession, which was as plain, precise, and binding on the United States as language could possibly frame it. That was, and must continue to be, an insuperable objection; it was, he must again and again tell them, absolutely beyond their power to annul, by any legislative act on their part, the stipulations contained in that instrument.

Mr. C. proceeded. There was another, and, it must be seen, a very important condition attached to the act of cession. Let gentlemen refer to that public deed. [Here Mr. C. read the third article of the act of cession; it is as follows:]

"*Thirdly*, That all the lands intended to be ceded by virtue of this act, to the United States of America, and not appropriated as before mentioned, (appropriated, [said Mr. C.,] as the act showed, for the payment of the land warrants alluded to,) shall be considered as a common fund for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion in the general charge and expenditure, and shall be faithfully disposed of for that purpose,

and for no other use or purpose whatever."—[*Laws of the United States*, page 87, vol. 11, third section of "An act to accept a cession of the claims of the State of North Carolina to a certain district of western territory."]

What answer could be made to that objection to the bill as proposed to be amended? There all the surplus land was specifically appropriated—directed to be applied to a certain express purpose "for the use and benefit of the United States of America, North Carolina inclusive, according to their respective and usual proportion and expenditure." It was further said that it shall be disposed of for no other purpose whatever. North Carolina, then, was entitled to a proportionate share in the advantages accruing from that fund and its proceeds, and the surplus land could not, consistently with that provision in the act of cession, be disposed of for any other purpose whatever. How could the House obviate that objection to the amendment before them?

Mr. CROCKETT said, that he felt it his duty to trouble the House with a few more observations in explanation of his views upon the subject before them, and particularly in reply to some remarks which had fallen from his honorable colleagues. He still remained unfixed in his opinion that without the amendment which he had proposed, the bill could not possibly be productive of any good effects, and he therefore felt himself bound, both in justice to himself and to his constituents, to use every effort to carry it through that House. He had, during the last session of Congress, suggested to his colleague, (Mr. POLK,) the Chairman of the Committee that had reported the bill brought into the House at that period on the same subject as that which was then under consideration, the propriety of reporting a bill appropriating the proceeds of the land in question entirely for the benefit of the western district of Tennessee—for the benefit of those poor settlers, who had sat down, and occupied various small patches and fragments of the public domain, and established comfortable though humble homes. But he was sorry to say that that gentleman objected to his proposition, and preferred that bill of his own, which he subsequently introduced, and which ultimately failed. Mr. C. here observed that an explanation on one particular point might perhaps be considered due from him. He would shortly give it. He had on that occasion supported the original measure of his honorable friend, (Mr. POLK,) while at the same time he perfectly knew that it would not be carried; he supported it under the hope that it would subsequently unite his colleagues of the Tennessee delegation with him in the support of his favorite measure—that of providing for the poor settlers of the western district. But he was sorry to find that he had been a very mistaken judge of policy indeed. Yes, (he repeated,) he was well aware at the time that it could not succeed in passing the House, and he was of a similar opinion with

JANUARY, 1839.]

*Land Claims in Tennessee.*

[H. OF R.]

respect to the present measure—he meant the original bill, which he was confident never would receive their sanction. It would be perceived by the House, that he was compelled to stand now in a very different attitude from that which he had assumed in the course of the last year's discussion of the subject. He felt himself called upon by a sense of duty to stand in opposition to the whole balance of the delegation from his own State; under the disadvantage also of having to contend with the arguments of three of the ablest members of the bar of that State. The House, he was sure, must fully appreciate the difficulties under which he labored in thus standing alone and unsupported; but he was strengthened in the task by the reflection that he was in the performance of his duty, and advocating the just claims of those poor, but honest, virtuous citizens who had sent him to that House, to attend to their rights and interests. He could not conceive that, in submitting his amendment to the House, and soliciting them to sanction it by their vote, he had requested one particle which they ought not to grant on every principle of charity and even of justice. To refer now to some observations of gentlemen upon that floor, relative to the operation of the amendment which he had proposed, one honorable gentleman (Mr. POLK) said it would act as a dangerous precedent; that other States would come forward encouraged by the poor settlers of Tennessee, and claim every acre of the public domain. Now he (Mr. C.) certainly could not see that such would be the necessary effect of the adoption of his amendment. Let other States be put in the same position as his State, and he would readily agree to grant them what Tennessee asked. Tennessee had received no public lands from the General Government; no United States surveyor had ever laid out lands in that State; she had a claim, and the worthy and honest citizens of his district had a claim—and a just claim it was, for it appealed to the best feelings of their hearts—to those lands. Was it then to be said that it would form a dangerous precedent to grant to those industrious and persevering men the miserable remnants and scraps of land which their toil alone could render desirable or valuable? Was it a dangerous precedent to grant to the poor and the needy the soil which they had reclaimed from the wilderness with the sweat of their brow? True, as had been said, those lands were of no value, but they were endeared to the settlers as being their homes—and to his own knowledge they were homes in which contentment and happiness reigned. But, if it were what they chose to consider so dangerous a precedent, he felt himself not the less bound to support it; his conscience told him he was right in doing so, and if that measure were adopted, the cries of those poor would resound in thanksgiving and gratitude before the throne of God. Another gentleman (Mr. LEA) had observed that, if the present claims were granted, they would

at the next Congress come forward and ask for more. Now it did not appear to him that such would be the case; all that he wanted on behalf of his constituents was that they should not be disturbed in the possession of the lands which they already occupied, and upon which depended their subsistence, by the holders of the North Carolina warrants. They asked Congress to grant them those lands, and those lands only; and if their request were complied with, the very utmost of their desires would be satisfied. The House, he was sure, must recollect that, when the subject was discussed last session, the gentlemen from North Carolina and Tennessee had stated that some of the North Carolina warrants were in existence. He (Mr. C.) did not believe there did exist any; but even supposing there was a number of them yet outstanding, were the holders of them to come and drive the settlers off their little patches of land, and reap the fruits of their years of toil and labor? He hoped the House would not sanction any measure fraught with so much cruelty and injustice. Besides, if those North Carolina warrants must be paid, there was good land enough in that State to meet them; and let them be satisfied out of that, without ejecting the indigent occupant in his district.

Mr. LOOKER said, that his pure belief was, that very erroneous opinions prevailed with respect to the extent and value of the land in question. The Chairman of the Committee that had reported the bill had stated that the whole value of the land did not exceed twenty thousand dollars. If he could be convinced that it was of such trivial value, he should most readily withdraw his opposition to the bill; but, he repeated that he could not bring himself to admit that such was the fact. Gentlemen would find, from reports of the surveyors, among the papers on their tables, that there were upwards of four millions of acres of land yet unoccupied; and it was his opinion that its value had been underrated in those reports. Some had been estimated at twelve and a half cents per acre; some at twenty-five; and some even as high as fifty cents. One gentleman did not hesitate to say that the aggregate value of it would amount to one hundred thousand dollars; and another had carried it up even higher. It was evident that the information possessed by the House on the subject was vague and indefinite. Alluding to the appeal so strongly made by the gentleman from Tennessee (Mr. CROCKETT) to grant the lands to the poor settlers on the score of charity, he asked the House whether there were not hundreds and thousands of their fellow-citizens in other States and territories, who might urge a similar plea for relief at the public expense? Certainly there were; and that measure, supposing it to receive the sanction of that House, would operate as a premium to the poor to settle upon the public lands. The exercise of acts of charity, no one could deny, reflected the highest honor upon the human heart; but it should not be forgotten

that those very lands, with the other part of the public domain, were pledged for the payment of the public debt. He begged it to be observed, also, that the lands were rapidly increasing in value, and in all probability, in the course of a few years, those pitiful scraps and fragments of sand and rock would exceed in value the sum of half a million of dollars. They would, besides, be compelled to grant similar privileges to other States. He concluded by saying that he was decidedly adverse to the measure.

Mr. Woods, of Ohio, said he had risen to address the House in reply to the arguments and statements made by the gentleman from Tennessee, (Mr. LEA,) and to notice the remarks made some days since by his colleague, (Mr. POLK.) I am (said Mr. W.) in favor of the amendment now before the House, proposed by the gentleman (Mr. CROCKETT) who represents the district in which a great portion of the land in question lies. I am opposed to the original bill; first, because the arguments urged by its friends are not sustained by the facts which are on record before us; and in the next place, I believe the principles on which the bill rests, would, if recognized in this case, overturn our whole land system. From the statement made to the House by the mover of this amendment, and the slight examination I had given to the subject, I did, the other day, express the opinion that the State of Tennessee had exceeded its authority. I will presently refer gentlemen to the facts on which I founded my opinion.

The gentleman who addressed the House to-day advocated the bill as a measure of justice to Tennessee. He asserted that, while all the other new States have received large grants for schools, colleges, and other objects, Tennessee has had nothing. He magnified the liberality of Government to Ohio, and would have us believe that Tennessee had alone been neglected, and has derived no benefit from the liberal appropriations made of our public lands. The gentleman who addressed the House last week (Mr. POLK) reminded us that this claim was presented by a respectful memorial of the Legislature of that State. He seemed to think we should not presume to question the facts assumed in that memorial, or the legality of the acts of the Legislature. Sir, however respectful the memorial may be, and to whatever deference it is entitled, we have here the right to examine the justice of the claim preferred by the State, and to investigate the legality of its legislative proceedings. I concede to the memorial of Tennessee the same consideration I would give to the recommendations of any other State, but nothing more.

The assertion, on which this whole measure rests, is that Congress agreed, by the act of April, 1806, to give to the State of Tennessee a section of school land for every six miles square in the State; and as it is alleged there was not a sufficient quantity of land in the district

north and east of the reservation line, to satisfy this grant, that we are bound to make up the deficiency out of the public land south and west of that line. This construction of the act of Congress is, in my opinion, altogether incorrect. The whole of the land in the district north and east of the reservation line, which includes more than two-thirds of the State, was granted to Tennessee upon certain conditions; one of which was, that the State should "locate six hundred and forty acres to every six miles square, where existing claims would allow the same, for the use of schools." This, sir, was a condition obligatory on Tennessee, and not on the General Government. [See United States Laws, vol. 4, page 40.] But admitting this construction to be correct, and giving to the act of Congress the greatest possible latitude, I will prove to the House that Tennessee has received a much greater quantity of land than it would be entitled to, allowing six hundred and forty acres for every six miles square in the whole State.

The gentleman was, I believe, entirely mistaken, when he informed the House that Tennessee had received less of the public lands than Ohio, or any other new State. Two townships for colleges, and one section to every six miles square, for common schools, has been granted to most of the new States and the territories. But what has Tennessee received? She has received much more than Ohio, Indiana, or Illinois, including all our grants for colleges, schools, roads, and canals. Tennessee has received more than two millions six hundred thousand acres of the public land, purchased by Congress as a common fund, for the benefit of the whole Union, and she now modestly asks five millions more.

The Commissioner of the General Land Office informs us that "the district of country lying north and west of the boundaries designated by the act of April, 1806," the whole of which this bill proposes to give to Tennessee, "is a very fine one, and contains a large portion of lands of very superior quality;" and that, "from an estimate made from the best maps in the possession of this office, it appears that the lands lying south and west of the line above mentioned amount to eight millions five hundred thousand acres."—*House Documents, vol. 3, doc. 76.*

By the act of April, 1806, all the lands in the State, north and east of the reservation line, were ceded to Tennessee, subject to certain conditions. In this country Congress reserved to the State, in trust for the support of colleges and academies, two hundred thousand acres—more than eight townships. The State yet owns one million fifty-five thousand acres, subject to the possessory right of the Indians, which will probably soon be extinguished. Tennessee has also received, in one small district, one million and twenty-four thousand acres. In addition to all this, more than twenty-two thousand seven hundred acres of school land has been located, and three hundred and five thousand

JANUARY, 1829.]

*Land Claims in Tennessee.*

[H. OF R.]

acres distributed between the State and the University of North Carolina; the whole quantity of land received by Tennessee, as appears from these documents, being more than two millions six hundred thousand acres. I make this statement upon the authority of the documents now before me. [See United States Laws, vol. iv., p. 40; Senate Doc. vol. iv., doc. 156 and 160; Indian Treaties, p. 465; and Tennessee Laws, 1822, p. 42, and 1825, p. 37.]

Part of these small scraps, as gentlemen would call them, have been sold by the State. Land to the amount of four hundred and eighty thousand dollars was purchased in 1820, at public sale, in the Hiwassee district; in which there has since been paid for land, entered at private sale, two hundred and seventy-six thousand two hundred and twenty dollars, amounting in this one small district to seven hundred and fifty-six thousand two hundred and twenty dollars; to which, if we add the value of the college and school lands, and the three hundred and five thousand acres shared with the North Carolina University, at the minimum of two dollars per acre, we will find that the State has realized from the public lands, more than one million seven hundred thousand dollars, and still holds the fee simple to one million fifty-five thousand acres.

These, sir, are the facts, in the face of which gentlemen have assured us that Tennessee had not obtained an equitable proportion of the public lands; that her claims have been disregarded; and that she had received nothing from the liberality of the General Government. We have heard much said of the rights reserved by North Carolina in the cession of this territory to the United States, which may still be enforced against this Government, if we adopt this amendment. I believe, sir, all the local claims of the citizens of that State have long since been provided for. If they have not been satisfied, Tennessee is bound to pay them out of the lands granted to that State, upon this express condition. If Tennessee has received more than seven hundred and fifty-six thousand dollars for a small district of this land, there could certainly have been enough found to satisfy all the outstanding claims and warrants. That State resisted the claims set up by North Carolina, and refused to satisfy them out of the lands to which the State had a legal title; but after Congress, by the act of 1818, authorized Tennessee to perfect titles to lands belonging to the United States, south and west of the reservation line, that State and North Carolina did recognize claims which had been declared invalid, under which they appropriated to their own use three hundred and five thousand acres of good land, to which the United States still has, in my judgment, a legal title. Congress has never acceded to the right claimed by North Carolina to issue warrants for the benefit of her University; nor has the power ever been given to Tennessee to permit locations to be made, and titles perfected, on such warrants. Long

Vol. X.—21

after the State of Tennessee had repeatedly provided by law for closing her land offices, they were again opened, under new provisions; not, indeed, as an act of justice or magnanimity to the soldier who fought the battles of the Revolution, or to his heirs, but for the benefit of a North Carolina corporation. Sir, the State of North Carolina had no more right to issue warrants to her University, in the names of the soldiers who had been dead for half a century, without heirs or representatives, than she would have to issue warrants in the names of the Egyptian hosts drowned in the Red Sea, upon the muster rolls of Pharaoh's army. The Legislature of Tennessee, in the year 1822, upon the respectful memorial of the University of North Carolina, made a compromise with that corporation, and confirmed its claims to the amount of two hundred thousand acres, upon the condition that sixty thousand acres should be transferred, and the title warranted by the University to the State of Tennessee. This was done, probably much to the mutual satisfaction of the parties. A new edition of warrants was issued, and, in 1825, an agreement was made by the agents of Tennessee and the University, to confirm the title to one hundred and five thousand acres more of land for dead men's warrants. The State of Tennessee, however, took care to keep two-thirds of this quantity to itself, and gave one-third to the University, which was no doubt well satisfied with the bargain.—[See Laws of Tennessee of 1822 and 1825, before referred to.]

[Here the debate closed for this day.]

TUESDAY, January 18.

*Land Claims in Tennessee.*

The House resumed the consideration of the Tennessee Land Bill—the question being on the amendment moved by Mr. CROCKETT, as a substitute for the bill, as modified, on the suggestion of Mr. POLK.

Mr. BLAIR said that he had refrained from saying any thing on this measure, when it was under consideration and discussion on former occasions, because of the interest which his colleagues had manifested, and also the fact that they had explained satisfactorily the object and end of the memorial of the Legislature of his State; and he would have contented himself at this time by giving a silent vote, but for the unjustifiable attempts which have been made to drive it from the House, by a kind of side wind, not only jeopardizing the measure, but tarnishing the purity of legislation in his native State. Under such circumstances, silence on his part might (by his constituents) be construed into a criminal indifference to the object, and a total disregard to the character of the State. This subject, though so fully discussed, seemed yet to be grossly misunderstood by some of the gentlemen whose opinions had been expressed in the course of the debate, and, doubtless, by

many others who had not participated therein. It should be his purpose, if he could receive—what had but seldom been awarded to the Speaker—the attention of the House, to present the claim of Tennessee in its proper light, while he should expose the demerits of each and every proposition, which had been made, in the amendment to the original bill.

But (Mr. B. said) before he would proceed to the subject, he would give a passing notice to the statements and opinions of some gentlemen who had expressed their preference for the amendment of his colleague. A gentleman from Kentucky (Mr. BUCKNER) informs us that his opposition to the original bill was recorded at the last session, but that he intends to support the proposed amendment, because he prefers to give the lands in Tennessee to occupants rather than to the State; and that he can see no good reason for doing indirectly what this House has the power to do directly. This is a mistake, into which, I fear, many have fallen. The State of Tennessee has never assumed, before this House, the character of a suppliant asking for favors. As one of its Representatives I ask the performance of your contract, (if not yours, your predecessors,) solemnly entered into, and which has never been realized. But, on this subject, I shall have occasion, hereafter, to speak more at large. A member from North Carolina (Mr. OULPEPER) said that he would vote to give the lands to the occupants, rather than to the State, because they (the occupants) "had risked their lives in taking possession of their lands, and had encountered privations incident to the settlement of all new countries." Mr. B. said that he had not expected to hear such arguments in favor of the proposition from the members from the State from whence that gentleman came, and he felt himself constrained to say, that it evinced such profound ignorance of the history of the landed system in North Carolina and Tennessee, and such an ill-timed display of benevolence for a part of the good people of Tennessee, that he feared that it arose from the consideration that they were the minority, and that, by extending his offices of kindness to them, he would thwart the views of the majority, and disappoint the expectations of the delegation on this floor.

Mr. B. said he could not but remind the member that the citizens of the district which he (Mr. B.) now represented, once deserved the character of hardy adventurers, "who risked their lives in quest of their homes;" they were the descendants of the good people of the gentleman's own State, and went out under the auspices of that respectable State. Did the gentleman at that time feel differently from what he now does? Then, the mother State, clothed with parental kindness, said to the occupants who invaded the Indian territory, with the rifle in the one hand, and Jacob's staff in the other, you shall have a preference of entry, or pre-emption in purchase, for the improvements which you have thus made, and which

were emphatically "at the risk of life, and under all the privations incident to new settlements." That was viewed as an act of great kindness, though the settlers were the holders of military warrants, and had fought in the Revolutionary struggle. [Here Mr. CARSON said that many of his friends supposed allusion had been made to him, which he did not believe, himself, but asked an explanation. To which Mr. B. replied, that he had no reference to that gentleman; his allusion was to the member in his eye, who had assigned his reason for supporting the amendment of his colleague, a day or two since.] A word as to the circumstances under which possession was taken of the country, in which the lands now in question lie. In 1818, the Chickasaw Indians ceded the land within the limits of Tennessee to the General Government; that land had been used by them as a hunting ground; after the treaty they abandoned it. Tennessee sent its surveyors and sectioned the whole country; it was thrown open to the North Carolina warrant-holders, who took up the choice of the country; and the residue has been possessed by the occupants. Sir, said Mr. B., no people ever have settled upon the public domain under circumstances less adverse.

Mr. B. said he would now come to the subject which he believed to be the proper theme of discussion—he meant the right of Tennessee to the surplus lands within its limits, for the purpose of making good the deficit in the school fund. He would inquire, what had been asked; what the House had done; and what was now attempted? The Legislature of Tennessee, some four or five years ago, memorialized Congress, and instructed the Senators and requested the Representatives from the State to use their influence to obtain a cession of the vacant residuum of lands within the State, after the satisfaction of all the North Carolina claims, for the purpose of aiding the school fund of that State; that memorial was entertained by the House, and a Select Committee raised for the purpose of inquiring into the validity of the claim: that committee, composed of members from several States, did investigate the subject, and report in favor of the application which had been made by the Legislature of the State, and the bill, after having undergone discussion at two former sessions, has again come up for consideration. Now, on the spur of the occasion, my colleague (Mr. CROCKETT) rises in his place, and proposes an amendment, dissimilar in its object, and entirely novel; which proposition, thus inconsiderately offered, against the instructions of our Legislature and the wishes of the delegation, we are gravely asked to adopt. Sir, (said Mr. B.) to say nothing of the want of courtesy in this movement, and the marked disrespect paid to your committee, I must say that it is unparalleled in the history of our legislation, dangerous in its tendency, and needs only to be named in order to meet marked disapprobation. Mr. B. said that he



JANUARY, 1829.]

*Land Claims in Tennessee.*

[H. OF R.]

had heard in times past, much said, both in and out of this hall, in crimination of those who had the temerity to disregard the influence of popular will, whether express or implied. He would ask the House if they, who are not instructed, would be instrumental in driving those who were, into disobedience, or would they sanction the principle that the request of a sovereign State, expressed through its Legislature, should be contemptuously rejected?

The State of Tennessee founds her claim upon the beneficial provisions of the second condition of the act of cession of 1806, which is as follows: "That the State of Tennessee shall appropriate one hundred thousand acres, which shall be located in one entire tract, within the limits of the lands reserved to the Cherokee Indians, by an act of the State of North Carolina, entitled an act for opening the land office, for the redemption of specie and other certificates, and discharging the arrears due to the army, passed in the year 1783, and shall be for the use of two colleges, one in East and one in West Tennessee, to be established by the Legislature thereof; and one hundred thousand acres in one tract, with the limits last aforesaid, for the use of academies, one in each county in said State, to be established by the Legislature thereof; which said several tracts shall be located on lands to which the Indian title has been extinguished, and subject to the disposition of the Legislature of the State, but shall not be granted or sold for less than two dollars per acre; and the proceeds of the lands aforesaid shall be vested in funds for the respective uses aforesaid, forever. And the State of Tennessee shall, moreover, in issuing grants and perfecting titles, locate six hundred and forty acres to every six miles square in the territory hereby ceded, where existing claims will allow the same, which shall be for the use of schools for the instruction of children, forever." Here (said Mr. B.) is your bond presented, and one which has been uncanceled, so far as relates to the common school fund—that fund which promises more to disseminate the blessings of education amongst the poor than all others. And how has it been met? No gentleman, within his recollection, has denied but that six hundred and forty acres of land, within each six miles square, was intended to be given to the State for the use of common schools; but, say they, it was upon the condition "that existing claims would allow thereof." What was meant by existing claims? Surely, those which had been issued and appropriated to the soil, anterior to the deed of cession. It could not have been intended that the surveyors should, in laying off the school lands, be compelled to wait not only to the present time, but, under the act of cession, to an illimitable period, in order to ascertain if claims, not then existing, would thereafter exist. No, sir, at the time of the donation, claims did exist, they had been appropriated in that section of country, and it was a matter of uncertainty whether six hun-

dred and forty acres could be laid down within the six miles square, without interfering with pre-existing locations; therefore, out of abundant caution, was the qualification made in the gift of cession.

Mr. B. said he could assure the House that not one acre of school lands had been laid off within the district which his colleague, who addressed the House on yesterday, himself represented. Why was it so? A plain answer is at hand. The soldiers of the Revolution, belonging to the North Carolina line, who had staked their lives and fortunes upon the glorious cause, relied upon this means for compensation, which had been jointly assigned for their satisfaction and the advancement of literature in the State of Tennessee. As the agent of North Carolina, Tennessee disdained to appropriate any portion of this joint fund to her literary institutions, though entitled to do so, or any other act which would diminish the fund or retard the soldier in the receipt of his hard-earned bounty. But, being satisfied that, north and east of the reservation line, a deficiency must exist, the legislation of Tennessee was exclusively directed to the interest and convenience of the Revolutionary soldier, trusting that the liberal provisions of the third section of the act of cession, favoring common schools, would thereafter be realized in good faith; which was, "that, if the territory thereby ceded to the State of Tennessee should not contain a sufficient quantity of land, fit for cultivation, according to the true intent and meaning of the original act of cession, including the lands reserved by the State of North Carolina to the Cherokee Indians, to perfect all existing legal claims charged thereon, by the conditions contained in the act of cession, Congress would thereafter provide for perfecting such as could not be located in the territory, out of the lands lying west or south of the before described line." Now, said Mr. B., seeing that more than two-thirds of East Tennessee has not a single foot of school lands, owing to the just, though disinterested preference given to the soldier; and seeing that your predecessors stipulated, in the event of the country, north and east of the aforesaid line, being insufficient to satisfy the claims charged upon it, that satisfaction should be made south and west of said line, can it be said that we are asking too much, when we only ask the refuse of those lands to be substituted for lands of superior quality, which we ought to have received? If the school lands had been laid off within each six miles square, as contemplated by the act of cession, each tract would have been more than equal to a score of those now asked for.

Mr. B. said that he would now inquire into the burdens which had been imposed upon Tennessee, and her inducements to encounter them. The district which he had the honor to represent was first settled; the citizens of which, in order to obtain their claims, were compelled to cross over what, at that time, was considered



an almost impassable chain of mountains; when they reached their intended homes, they were surrounded by savages and beasts of prey, and deprived of every convenience and comfort incident to civilized life. After thus sustaining themselves amidst portentous difficulties, and being established as a member of this great Confederacy, the language of complaint was heard on the subject of their inconveniences in obtaining from the seat of Government of the parent State titles to their homes purchased at so dear a rate. This as a matter of convenience inclined Tennessee to assume the agency and to enter into a concern in which she was to become the responsible member of the firm though not participator in the profits.

It cannot be supposed that the State of Tennessee assumed the responsibility and incurred the expense of superintending the landed concerns of others from motives of convenience alone. Recur to her past history and what are the facts? Thirty years' legislation and consequent taxation in order to keep up this landed system; Boards of Commissioners for the adjudication of the North Carolina land claims and for agents sent to North Carolina to procure copies of the books in the Executive office of that State; and for what? I answer from the confident hope that there would be a realization of some benefit to her or to the literary institutions of the State after satisfaction of all the claims of North Carolina upon that territory—a hope that from the surplus lands over which her care was to be extended, a fund would be raised to gladden the poor man's heart by seeing the clouds of ignorance and error dissipated from the mind of his offspring under the genial influence of the rays of education which had measurably been obscured in their lonely retreat. In this way, and this alone, could he account for the labors performed, and expenses incurred by his native State, when, for many years, these burdens were sustained by the district, the citizens of which his colleague and himself represented. If he was correct in saying that all the North Carolina claims were first to be satisfied, and in satisfying them, school lands were to have been laid off for each six miles square, he would put a plain question to the House. Suppose, in the exercise of great good feeling towards the occupants in the Western district of Tennessee, you should give away the fund which was provided for the satisfaction of the claims before specified, what think you would be the next application? Surely it would be to you both on the part of North Carolina and Tennessee to discharge their respective claims. Will you then divest yourselves of the means of paying your debts and exercise generosity, at the expense of justice?

Mr. ISAACS said: I will not occupy the attention of the House with constructions of cessions and compacts, and the history of legislation growing out of them, in North Carolina and Tennessee; enough has been said already

to maintain, as far as all that can go, the ground taken in support of this bill. I will content myself with presenting one plain view of the subject, which others may have overlooked. I submit to the House this direct and simple inquiry: In the present situation of this land, what is it likely to be worth to the United States? It must be answered, if it remains as it is, it can be worth nothing. Will you be at the expense of surveying, selling, and making titles to it? Will it pay cost, and yield a profit over, which will be worth the experiment? The United States can't dispose of it without establishing a land office there; a register and receiver must be appointed, and a surveyor, with salaries, such as are given to the like officers elsewhere: for these, under our system of land laws, are salary officers. A register and receiver get, each, besides commissions on sales, five hundred dollars a year. The surveyor, besides compensation per mile, two thousand dollars.

The United States cannot establish and keep there the necessary machinery for the appropriation of these lands, at an expense short of five thousand dollars per annum. And then, how are the public lands of the Government disposed of? Not an acre of it can, under the existing laws, be sold, either at public or private sale, for less than one dollar and twenty-five cents per acre. Does any man, from the general but faithful account given of the quality of the land, believe that there is any part of it that would ever sell at that price? If he does, he is certainly much mistaken, as I will show. You may expose your land there to public sale; your crier may cry himself to death; you may continue your land office; and in fifty years you cannot sell land enough to pay the expense of one year: for the plainest of all reasons—the land is not worth the price you set upon it. Whenever this subject has been before the House, some gentlemen have shown much sensibility, and expressed great concern, lest Congress should relinquish to Tennessee property of great value if retained. If gentlemen think so, how is it that no one of them has ever submitted a proposition to have the necessary offices established, and the duties performed, by which the Government could realize the value, which, in argument, had been attached to the lands? Why have they so long forbore to attend to this great interest? Their own conduct goes clearly to support the position which I take, that, to the United States, the price obtained, would not clear cost. I pretend to no very accurate knowledge of the quality of this vacant land, not having seen it; but I know enough of the general features of the country, and especially of the mode of land appropriations in Tennessee, to render any detailed information altogether unnecessary in arriving at a just conclusion. This district, south and west of the line, is said to contain eight millions of acres. Be it so. It is shown that more than half of that has been covered by en-

JANUARY, 1829.]

*Land Claims in Tennessee.*

[H. OF R.]

tries and grants. There is much good land there, but there is also a very great proportion of uneven, barren, sterile, and swampy ground, worth nothing at all. Of the portion appropriated, the parcels are in all sizes, from five to five thousand acres, and in all imaginable shapes: for the warrant-holder, not being confined by any sectional or other lines, made his entry upon just such lands as suited him—of course, including the good and excluding the bad; and thus the surveys, in their size and shape, are regulated by the choice, convenience, or whim, of the enterer, and often controlled by accidental circumstances. This brief account of the irregular mode of appropriation may not be intelligible to those who are only acquainted with the regular surveys by right lines, ready made to their hands, by the Government, but it will be understood, at least by the members from Kentucky, who, like us, have some unpleasant experience on this subject. I wish I had a map on which the surveys were represented, so as to present to the eye, the curious variety of figures which they would exhibit, and the shapeless remnants of refuse lands—refuse, truly, because, it is just what remains after picking and culling over and over, with warrants of all sizes. This is a fair but imperfect picture. Subtract from this remnant the lands worth nothing; set your surveyor to work: he must first run out all the individual claims, to ascertain the vacant residuum. This he must leave in the shape he finds it, and, by its numerous offsets, give the quantity; the quality would hardly compensate him for his pains, nor you for the expense. Though I admit that there may be, if you had it run out, over a hundred thousand acres that would be worth something, none of it is worth the Government's minimum price.

But we are met at every corner with this objection: If the land be so indifferent, and lies so awkwardly, why do you show such persevering solicitude to get it? In other words, if it is worth nothing, why do you want it? I will meet that inquiry candidly, and I trust, successfully. We show, by the very situation and character of the property, the difficulty and expense of its ascertainment and sale, that the United States cannot realize any profit from it. Why? Not merely because it is worth so little, but because it would cost so much in pursuit of that little; that the expenditures out of the Treasury, in actual cash, would never be reimbursed by the proceeds of the sales. But it does not, therefore, follow, that it would be worth nothing to Tennessee—far from it. It will cost us very little to sell it. There is the difference. The United States would have to employ officers, say at the rate of five thousand dollars a year. We can save that cost, because we have our offices and officers already; and, for the interest of our citizens, we must keep up that apparatus, whether we get this land or not. That which would cost the United States more than they would get for the land, will cost us little

or nothing; and whatever shall be made, we shall have clear of charge. The difference between the Federal Government and Tennessee, in regard to their interest, consists in the difference of situation in regard to the means of turning their interest to a good account; the one already has, without an increase of expense, all the means that are necessary—the other has not the means, and cannot have them, without incurring an expense that their interest in the thing will not justify. And hence we say, and say with confidence, that the land is of no value to the United States, but would be of considerable advantage to us. To the United States the expense would overrun the profit—to us the profit would tell for itself, without the expense. If then, the House are satisfied that this land can be of no use to the Union, it surely will not hesitate to let it go where it can be useful. I will not believe that Congress will act the part of the dog in the fable: neither use it themselves nor let any one else do it.

The next question is, to what purpose will you convert it? Will you relinquish it to the State of Tennessee, to be applied as a small addition to our very scanty fund for the education of children at common schools, agreeably to the original plan proposed by the bill? Or will you adopt the amendment proposed by my colleague, (Mr. CROCKETT,) making it a free gift to the settlers? I am for making it useful to both: useful to the State, in the way of common school education; and useful to the people of the Western district, and to the settlers themselves, who will have a common interest in this fund, and derive an equal benefit from it. And to render it peculiarly beneficial to the settlers, I am in favor of going further, and should not be willing to vote for any bill that did not enable them, without risk, to save their homes, by securing to them the right of preemption to the land that they occupy. I would give them ample time to do that, before the land should be sold to others. I would give them the most reasonable terms, at graduated prices, and even better terms than the common purchaser; and with this I think they ought to be content. Farther than this, with all my feelings in favor of occupants, I cannot go. If I did I should not only disregard the instructions of the Legislature, and the general interest of the State, but I should feel that I might be violating that maxim which requires us to be just before we are generous. How stands the matter, as abundantly shown by others? These, with other lands in Tennessee, were ceded by North Carolina to the United States, upon this express condition, among others, that all the claims upon the land which North Carolina had originated, should be satisfied. It is alleged that there are still claims of this description unextinguished; to what amount I know not. But one thing I know, that, if you give away all the land, and put it out of the power of Tennessee, who, by compact, has been made the

agent of these parties, to discharge the trust, either in land or compensation for warrants, it will not be long before you hear from these North Carolina warrant-holders, if there be any, (I hope there are but few.) And how will Congress resist their claim to indemnity? They will tell you that you have broken the contract, by giving away the land, that they had a right to get. You cannot turn them over to Tennessee, because you have snatched the land away out of her hands, and not allowed her to get any thing for it, when she asked you for permission to dispose of it.

But I have other, and to my mind, stronger, reasons for opposing this amendment. It is at war with the principles of equality which ought always to be observed in legislation. A preference to the first settlers, in a new district of country, has been a favorable and excellent principle in the policy and legislation of Tennessee, and has been practised by Congress under peculiar circumstances. It is one to which I am much devoted. But that preference has never been extended farther than to give to the settler the right of saving his land, at the lowest price which the common purchaser was required to pay, and prevent any other from taking it from him, if he would, within a given time, pay that much. There are, certainly, thousands of citizens in Tennessee who settled their lands under at least equal hardships, and much greater dangers, than the settlers upon the lands in question did. No lands were ever given to them; none were expected to be given. All that ever was done, for the most meritorious of them, was to give them a preference in the procurement of their titles. Why, then, make a distinction in this particular case? I have heard no reason urged for it which might not equally apply to the first settlers of every other part of Tennessee, and the other inhabitants of the Western district, and, indeed, to those of every other new country. There are many reasons why this class of citizens should be favored by the Legislature, in securing their homes in preference to others. But, while the public domain is sold at all, it might be going too far to give it away merely because it has been settled upon. I confess that, between the amendment and the bill as amended by the gentleman from Kentucky, (Mr. WICKLIFFE,) I have very little choice. It is not, with me, a serious objection to the amendment that it proposes to perfect the titles through the agency of our State officers. Though not, ex officio, bound to perform the duty, I doubt not but they would do it for the fees. Nor do I believe that we shall have a Governor in Tennessee, though he receives no fee, who would think it an indignity to sign a poor man's grant, if authorized by Congress to do so.

Mr. Woods said he asked the indulgence of the House, for the purpose of making an explanation, to remove an impression which had, perhaps, been made by his remarks, in relation to the information received from the gentleman

on his right, (Mr. CROCKETT,) to which he had referred. Sir, (said Mr. W.,) I received no information from that gentleman which he did not state in his place to this House. I never heard him say a word on the subject which he did not substantially repeat on this floor. It was stated, by the member from Tennessee, in his place, that three hundred and five thousand acres had been divided between that State and the North Carolina University. I referred to that fact, and I now have in my hand the act of the Legislature, passed on the 24th of November, 1825, page 37, by which it is provided that Tennessee should have two-thirds, and the University one-third, of the money arising from the sale of warrants for one hundred and five thousand acres, the right to which had been disputed. I understood one gentleman (Mr. BLAIR) to say, that Tennessee had never controverted or denied the justness and validity of the claims of North Carolina, or its citizens. Sir, I will read a paragraph of the compact entered into, on the 26th of August, 1822, between the agents of that State, and the North Carolina University, published with the laws of Tennessee, of 1822, page 42. The preamble of that compact declares: "Whereas the State of North Carolina hath issued to the President and Trustees of the University of North Carolina sundry land warrants, founded on military services, performed by certain officers and soldiers of her continental line, who have died, leaving no heirs in the United States; and whereas the State of Tennessee hath contended that the State of North Carolina ought not to have issued said warrants, by virtue of any law of said State, to the President and Trustees of said University, and that grants ought not to issue on the same." The States of Tennessee, and North Carolina, when it united their interests, did compromise these differences; and we have been informed by the gentleman who reported this bill, that North Carolina has closed her offices, and, by law, provided against issuing any more warrants. (See Report, No. 32, Vol. 1.) The argument that we might, by this amendment, interfere with the rights of North Carolina, must, therefore, be without foundation. The same honorable member has said, that Tennessee had not received the amount of money I stated; and that thousands of acres, in the Hiwassee district, would not sell for one cent per acre. As I did not read the document yesterday, to which I referred, I now beg leave to read an official letter from Nathaniel Smith: (Entry taken for the Hiwassee district, Senate Documents, vol. 4. Doc. 156.) "The amount sold at the sale in 1820, I have no account of, not having any thing to do, at that time, with the Land Office. I have been informed, by the Treasurer of East Tennessee, who superintended the sales, the amount of sales was about four hundred and eighty thousand dollars; that the land sold averaged about four dollars per acre; and that the sum of two hundred and fifty thousand dollars had been paid into the

JANUARY, 1829.]

*Land Claims in Tennessee.*

[H. OF R.]

Treasury." Mr. Smith also states that "the amount of land entered in that district, since the 2d of February, 1824, is five hundred and one thousand acres; for which the State had received, in cash, two hundred and seventy-six thousand two hundred and twenty dollars." The whole amount for which land had been sold, in that district, being, as I before stated, seven hundred and fifty-six thousand two hundred and twenty dollars. I also refer to another letter in the same volume (document 160) from an honorable member from Tennessee, (Mr. MITCHELL,) who says, "If my recollection serves me rightly, between three hundred and fifty and four hundred thousand dollars were paid into the public Treasury, from the entry of the lands, in that small district, after the whole of them had been culled and picked, at the sales which preceded the entry system." I will not longer trespass upon the House. My object, in rising, was to do justice to the gentleman on my right, (Mr. CROCKETT,) and to read the documents to which I referred yesterday.

Mr. POLK said: Standing in the relation that he did to the subject before the House, having reported this bill from the Select Committee who had been charged with the subject, and frequent allusion having been made to him as the chairman of that committee, by several gentlemen, he felt it to be his duty, and he asked the indulgence of the House, to correct some errors into which he conceived gentlemen had fallen, and to meet some objections which had been urged against the bill. And first, the gentleman from Massachusetts (Mr. LOCKE) had been pleased to refer to the information possessed by the committee that reported the bill, and, especially, to that communicated by himself and his colleague, in reference to the true situation of the vacant lands in Tennessee. The gentleman opposed this bill upon the ground, chiefly that we had not sufficient information of the country, and that he apprehended these lands were worth much more than was generally supposed. The gentleman, in his great zeal to defeat this bill, had gone so far as to say, (certainly without any data upon which to make the estimate,) that these vacant shreds and patches of land were worth, and in his opinion would bring, to the United States, half a million and perhaps a million of dollars. Mr. P. said that the gentleman's estimate was one made not only without proof to sustain it, but was against the positive proof before the House.

When the subject was before the committee, he and his colleague who were members of the committee, had given such information as they possessed, as to the true situation and probable value of these lands. Their information was of course general and not minute. They had stated in substance, that the most valuable lands had been appropriated in satisfying the North Carolina warrants; that what remained were the refuse lands, lying not in compact

bodies, but in detached parcels; and that, in their opinion, the United States, if they attempted to survey and bring them into market, according to the present land system of the United States, the amount of sales, if it should be practicable for them to do it at all, would not defray the expenses. They had called the attention of the committee to the memorial of the Legislature of the State, in which a statement of the true situation of the lands was contained. This general statement was made, and (said Mr. P.) it was the true statement. Himself and his colleague could not, of course, state what precise number of dollars and cents it was worth, for their information was not so minute. With this general statement, and from the documents before them, a majority of the committee thought it just to cede the lands to Tennessee to supply the deficiency in the common school lands, and agreed to report the bill. The gentleman from Massachusetts was in a minority on the committee; he was not, as he said, satisfied, and at his (Mr. LOCKE's) suggestion, he, (Mr. P.), after the bill was reported, in order to satisfy, if possible, every individual, had, at the last session of Congress, addressed a letter to each of the Tennessee surveyors in that district of country, requesting specific information on the subject. The official statements of the surveyors was received, sustaining to the full extent the statement which had been made. He had presented those official statements to the House; they had been ordered to be printed, and had been laid upon the table of every gentleman. And yet the gentleman complains of a want of information. What would satisfy him he knew not; but he was sure he would do him the justice to say, that he had used all the means in his power to procure, for him and for the House, the necessary information to enable them to act understandingly on the subject. Sir, (said he,) what are the official statements of the Tennessee surveyors, as to the quantity and value of these lands? He had (he said) at his table, whilst the discussion had been going on, made a rough estimate, taken from these official statements, which if not in the opinion of the gentleman minutely accurate, certainly approximated to the truth, and varied but little from it. From these official statements, which he had then before him, it appeared that there were about six hundred thousand acres of land south and west of the Congressional reservation line, lying in detached pieces and small bodies, that might be sold, a small portion of it for fifty cents an acre, a portion at twenty-five cents an acre, but much the greater portion at twelve and a half cents an acre; that the aggregate amount according to the opinion of the surveyors, who were men of integrity and character, and who certainly knew the country better than the gentleman from Massachusetts, who had never seen it, and he imagined had never been nearer to it than Washington, for which they could be sold, at these prices, would be one hundred and

seventeen thousand and fifty-five dollars; and that the balance of the vacant lands, being about three millions of acres, was exceedingly poor and sterile, could not be sold for any price, and would not be worth the annual taxes upon it. So much for the objection of the gentleman from Massachusetts, and his argument that the committee that reported the bill, as well as the House, have not sufficient information.

THURSDAY, January 15.

*Cumberland Road.*

Mr. MERCE moved to fill the blank in the bill with the sum of one hundred thousand dollars, which was agreed to—yeas 88, nays 76.

Mr. M. briefly explained the facts of the case. That part of the road which lies east of the Ohio is one hundred and thirty miles in length. On seventy-one miles of this road, the bill proposes to erect toll-gates, at not less than ten miles apart. After the gates and toll-houses have been erected, the residue of the money is to be expended in repairs upon the road. Mr. M. assured the committee, that, when this measure should have gone into effect, they would never again be called upon to appropriate money for this road, as the tolls would be sufficient to keep it in repair. If not, it must remain a charge upon the Government, and the two millions two hundred and forty thousand dollars which had already been expended on this great national work would be lost, and the road fall into a state of total dilapidation.

The amendment having been agreed to, the bill was laid aside.

*Southern Exploring Expedition.*

The committee, on motion of Mr. BARTLETT, took up the bill making provision for the exploring expedition in the southern hemisphere. The blank in the appropriating clause having been filled with the sum of fifty thousand dollars, Mr. BASSETT moved that the committee rise.

Mr. BUCHANAN now entered the House, and wished to offer an amendment to the Cumberland road bill.

The CHAIRMAN said that, as that bill had been laid aside, it would not be regular to receive the amendment.

Mr. BUCHANAN insisted that, so long as the committee remained in session, it was his right to offer an amendment to any of the bills it had had under consideration.

The CHAIRMAN replied that the case was new to him, and he deemed such a course irregular, but should receive the amendment, if the committee unanimously assented to it.

Mr. BASSETT now withdrew his motion for the rising of the committee, and no objections being made, Mr. BUCHANAN offered his amendment, which went to strike out the whole of the bill, after the enacting clause, with the ex-

ception of one hundred thousand dollars, to put the road in repair; and to provide, in substance, that the several parts of the road passing through different States should be ceded to those States on certain conditions. Mr. B., after a few general observations on the great importance of the constitutional question involved in the bill, expressed his desire, that, owing to the feeble state of his health, the further consideration of this bill might be postponed till Monday next; which being agreed to, the committee rose, and reported the other bills to the House.

The bill for the exploring expedition was briefly opposed by Mr. WICKLIFFE, who demanded the yeas and nays upon ordering it to its third reading. They were taken accordingly, and stood as follows:

YEAS.—Messrs. Addams, John Anderson, Samuel Anderson, Archer, Bailey, Noyes Barber, Barker, Barlow, Barney, Barringer, Bartlett, Isaac C. Bates, Edward Bates, Beecher, Blake, Buck, Bunner, Butman, Cambreleng, Carter, Condict, Crowninshield, Culpener, John Davenport, John Davis, De Graff, Dickinson, Findlay, Fort, Forward, Garmsey, Green, Hobbie, Hodges, Holmes, Hunt, Ingersoll, Johnson, Lawrence, Leffler, Little, Locke, Lyon, Markell, Martindale, Marvin, Maynard, McIntire, McKean, McLean, Mercer, Merwin, Miller, Miner, Muhlenberg, Newton, Orr, Pierce, Pierson, Plant, Ramsey, James F. Randolph, Reed, Richardson, Ripley, Russell, Sergeant, Sinnickson, Sloane, Smith, Sprague, Sprigg, Stevenson, Stewart, Storrs, Stower, Strong, Swann, Swift, Sutherland, Taliaferro, Taylor, Tracy, Ebenezer Tucker, Vance, Verplanck, Vinton, Washington, Whipple, Whittlesey, James Wilson, Ephraim K. Wilson, Silas Wood, John Woods, Woodcock, Wolfe—97.

NAYS.—Messrs. Alexander, Alston, Armstrong, Baldwin, Philip P. Barbour, Bartley, Bassett, Blair, Brown, Claiborne, Conner, Coulter, Thomas Davenport, Desha, Duncan, Earl, Floyd of Georgia, Fry, Garrow, Gilmer, Hallock, Harvey, Haynes, Healy, Hoffman, Isaacs, Jennings, Keese, Kremer, Leconte, Lea, Letcher, Long, Lumpkin, Magee, Marable, Martin, Maxwell, McCoy, McDuffie, McHatton, John Mitchell, Thomas R. Mitchell, James C. Mitchell, Nuckolls, Polk, Rives, Roane, Shepperd, Stanberry, Sterigere, Taber, Thompson, Trezvant, Sterling Tucker, Turner, Wickliffe, Wilde, John J. Wood, Silas Wright, Yancey—59.

So the bill was ordered to its third reading.

FRIDAY, January 16.

*Amendment of the Rules.*

The following resolution, offered yesterday by Mr. WICKLIFFE, came up for consideration:

"Resolved, That the following be added to the Standing Rules of this House:

"All elections by the House of Representatives shall be by *visa voce*, by a call of the names of the members, alphabetically, from the roll."

Mr. WICKLIFFE said the nature of the proposition which he had submitted, and which was now under consideration, required of him to

JANUARY, 1839.]

*Amendment of the Rules.*

[H. OF R.]

state to the House the reasons which had influenced him to ask a change of practice in Congress of such long existence as that of voting by ballot. A natural preference for those rules of proceeding, in the exercise of our civil as well as our natural rights, to which we have been accustomed from our infancy, was not without its influence upon him in the present instance. He had grown up in a State whose fundamental law prescribed to the citizen the right and compelled the Representative to vote *viva voce* in all elections. This, of itself, would not have been a sufficient reason for his proposing a change in the Rules of this House. He was influenced by higher considerations: by conviction of its propriety and importance, both in reference to the rights of the constituent and the obligations of the Representative. In some States, or communities, it may be sound policy to guarantee the citizen, in the exercise of his original right of suffrage, the privilege of voting by ballot. The citizen exercises his own original right; he is responsible to no one for the vote he may give. He may be dependent upon the man or men against whom his best judgment dictates his vote. He may be unwilling to encounter, if he be able to withstand, the hostility which his vote might excite in the breasts of those upon whom he is dependent. Not so with the Representative: he exercises a delegated trust, for which he is responsible to those who have clothed him with the power of voting. In voting, by the members of this House, in the choice of its officers and agents, the influence of public opinion is as important, and it should be as respectfully obeyed, by the Representative, as upon the expediency of any act of legislation. Instance the election of a Speaker, to preside over the deliberations of this House, with the power to appoint its committees, &c., charged with the disbursement of two or three hundred thousand dollars of public money, in the payment of the members, and other expenses incident to our legislation, with no responsibility to the Government but his high character. A vote in his election may be of much more importance to the community, to the dignity and character of our Government, than in the passage of a law or resolution. The constitution under which we legislate has secured to the people, upon the request of one-fifth of their Representatives, the important right of having the votes of their Representatives spread upon the Journal, on any question, however unimportant in its effect or consequences. Yet, said Mr. W., we, by the rules or practice of our House, choose to shield ourselves from responsibility, for the votes we give, in the elections of important public officers and agents, by hiding from our constituents within the lids of the ballot-box.

What are the objections to the proposed change? I have heard, in conversation, but one. There may be others: more, I have no doubt, will be urged. It is alleged that, by a

*viva voce* vote, the member will give offence, or may incur the displeasure of the Speaker, or the candidate for office, against whom he may vote. I will not allow myself, for a moment, to suppose, that a Representative of forty thousand freemen, or one who is fit to represent forty thousand freemen, does not possess independence and moral firmness enough to avow for and against whom he votes; and the man who is elevated to the dignified station of presiding over the deliberations of the House of Representatives of the United States, who would permit his indignation or revenge to be exerted against a member, because he preferred another for the station, is unworthy the confidence or respect due to the office he fills, or the claims of gentlemen. The member who would, from the dread of such indignation, sacrifice his independence, is destitute of that manly feeling and moral courage which ought to characterize, and I trust ever will characterize, the members of this House. I will, therefore, dismiss this objection, as one which cannot prevail, or find an advocate on this floor.

Allow me to present to your view a member, (if such a one should ever find a seat in this House,) who, influenced by a desire to be considered the friend of all candidates, or a dread of incurring the displeasure of any, (except his constituents,) would prepare his ballots, (one or more,) exhibit them to his neighbors, and then, by a species of legerdemain, slip into the ballot-box his vote in favor of a man for whom he would not have the independence openly to declare. Would you envy the independence and firmness of such a member? or would you not rather pity his meanness and servility? I believe the rule which I propose will violate no principle which belongs to a representative Government. It will have a tendency to secure and preserve the great one of representative responsibility, upon the preservation of which depends the pure and correct administration of this Government, if not its durability. I mean, sir, a direct accountability of the public agent to those who clothed him with authority. I can, therefore, but flatter myself, the resolution will be acceptable to a majority of this House.

Mr. MERCE said that, although he did not believe that he had ever given a vote by ballot which he had not exposed at the time, especially to the party against whom it was given, yet he could not consent to the adoption of the rule now proposed. Its necessary effect would be to lead to very great inconvenience, and great and useless sacrifice of time. The election of a Speaker, for instance, even in the present mode, had in some cases occupied two and even three days, as many as twenty-one ballots having sometimes been taken. It was manifest that, if the yeas and nays must be called for each vote taken, the election, instead of occupying two or three days, was likely to be protracted to two or three weeks, to which extent it had, indeed, in one case, gone, when

Mr. Jefferson was elected in 1801. He had been a member of a public society, in which, although the people of the State over which it presided held all their elections *viva voce*, it was nevertheless the practice always to elect by ballot. The rule had been adopted from experience, with a view to save time; but, in this House, it was proposed to reverse the rule, although it had been observed, without interruption, from the first organization of the Government—the effect of which would be to consume a large portion of every session; and to what purpose? What benefit could possibly accrue? The ostensible plea was, that, by this means, the Representative would be held responsible to his constituents for the manner in which he voted; but was it possible that this House contained a single member who wished to shrink from responsibility on such a subject? Could there be a gentleman on that floor who would not feel a pride in meeting that responsibility? Did the gentleman suspect his fellow-members of so great a want of candor? Mr. M. said that, inasmuch as no inconvenience had been experienced from the operation of the present rule, but great and obvious inconvenience would result from the proposed change, he felt himself bound to oppose the resolution under consideration.

Here Mr. M. adverted to an amendment he had himself offered a few days ago, proposing to apply the previous question to amendments pending, the propriety of which he briefly insisted upon. The consumption of time, even in the present mode of electing by ballot, arose principally from the practice of counting the ballots in the House. This might easily be avoided, by allowing the tellers to retire, and the business of the House to proceed in the mean time. If the standing rules of the House were to be altered on every slight occasion, and for any temporary object which gentlemen might have in view, there was no end to the changes which might be expected.

Mr. WEEMS coincided in part with the views expressed by Mr. WICKLIFFE, but moved to amend the resolution in such a manner as to require a *viva voce* vote only when demanded by one-fifth of the members present, in conformity with the rule at present in force in relation to the yeas and nays.

Mr. WICKLIFFE objected to the amendment, and declined accepting it as a modification.

Mr. CULPEPER expressed himself in opposition to the resolution. The first reason which the mover had given in its support, operated, in his own case, in a manner directly the reverse: for, he had been accustomed, from the outset of his public life, always to election by ballot, and never *viva voce*. In the State of Georgia, where he had at first resided, the very experiment had been made which the gentleman from Kentucky wished the House now to try. The mode of election for Representatives had been changed as was now proposed, and the effect was such, that, after the single *viva*

*voce* election, the Legislature was besieged by petitions from all parts of the State to restore the former practice. The act was accordingly repealed. In North Carolina, which State he had now the honor in part to represent, election by ballot had always prevailed. For himself, he believed he might truly say, he had never, at any time, put a vote into the ballot-box, which he had the least wish to conceal. He had been a member of the House, with but few interruptions, for twenty-two years; during which he had never voted, either by ballot or otherwise, in a manner which he would not have exposed to all the world. The mode now proposed would prove exceedingly inconvenient and tedious in practice, and seeing no good reason in its favor, he should give it his decided negative.

Mr. MALLARY said he was utterly opposed both to the amendment and resolution. The officers of this House had ever been appointed by ballot from the foundation of the Government. It was the old Jeffersonian practice. Had any thing occurred lately to render a change desirable? Had the honorable gentleman any new or special reasons to suspect that the members would act dishonorably if intrusted to conceal their votes by the ballot-box? For himself, he knew of none. If the gentleman had discovered any, he should like to be informed of it. He had presumed the gentlemen of the present Congress were as honest and as honorable as their predecessors. Their fathers had voted by ballot, and he knew of no reason why the practice should now be changed. Perhaps the honorable gentleman might have within his knowledge some secret reason for supposing that this Congress ought not to be trusted by the nation to the same extent which other Congresses had been. If such were the case, he should like to know it.

[Here further debate was suspended by the expiration of the hour.]

#### Georgia Claims.

The House went into Committee of the Whole, and resumed the consideration of the motion of Mr. THOMPSON, to reverse the report of the Indian Committee, on the subject of the Georgia claims.

Mr. WILDE observed that, in rising to redeem his pledge, it would be impossible to avoid entering somewhat into detail. These claims had never been acted upon by the House. The facts respecting them were, as yet, imperfectly understood. The questions they presented had not been examined. The arguments in their favor were still unheard. It was not his wish, however, to say more than the occasion absolutely required. He should be satisfied if he could procure a patient inquiry into the merits of the claims; beyond that, he had nothing to hope or ask. When the rights of the claimants were understood, the measure of justice to which they were entitled would be readily settled, by every gentleman, according to his own



JANUARY, 1829.]

*Georgia Claims.*

[H. OF R.]

judgment. In 1821, one of those compacts or agreements, which have been familiarly, but not properly, called treaties, was entered into between the United States, the Creek tribe of Indians, and the State of Georgia. A cession of land from the Indians was then obtained by the United States, for the use of the State, the consideration of which was to be paid by the United States, in conformity with the obligations imposed by the articles of agreement and cession of 1802. At the time of those negotiations, there were existing claims of the citizens of the State of Georgia against the Creek nation, for depredations committed, prior to the act regulating intercourse with the Indian tribes. These claims formed one of the subjects of the negotiation; and for the purpose of procuring payment of them, commissioners on the part of Georgia had been appointed. Registered from time to time as they arose, in the proper department, according to law, with the proof by which they were established, an abstract of them, from the books of the Comptroller's office, was in the hands of the commissioners, and exhibited at the conferences. They amounted to two hundred and eighty thousand dollars, and were principally for property plundered or destroyed, by Indians of the Creek tribe, in some of those predatory incursions with which our Southern frontier was so often harassed. Reparation for these injuries had been often stipulated, but never made.

Repeated acts of hostility, attended with all the horrors of savage warfare, had been succeeded by repeated promises of peace and indemnity, which, in turn, were as repeatedly violated, with all the recklessness of savage perfidy. These outrages could not be denied. The obligation to repair them had been often solemnly admitted. The breach of that obligation was notorious. Under these circumstances the compact of 1821 was made. By the 4th article, the payment, by the United States, to the Indians, of various sums, at different times, amounting in the whole to two hundred thousand dollars, is stipulated, and the article then proceeds:

"And as a further consideration for said cession, the United States do hereby agree to pay, to the State of Georgia, whatever balance may be found due by the Creek nation to the citizens of said State, whenever the same shall be ascertained, in conformity with the reference made by the commissioners of Georgia and the chiefs, head men, and warriors of the Creek nation, to be paid in five annual instalments, without interest, provided the same shall not exceed the sum of two hundred and fifty thousand dollars; the commissioners of Georgia expecting to the Creek nation a full and final relinquishment of all the claims of the citizens of Georgia against the Creek nation, for property taken or destroyed, prior to the act of Congress of one thousand eight hundred and two, regulating the intercourse with the Indian tribes."

By the articles of agreement, made at the same time, between the commissioners of Geor-

gia, and the chiefs, head men, and warriors of the Creek nation, all claims on either side, of whatever nature or kind, prior to the act of Congress of one thousand eight hundred and two, with the documents in support of them, were referred to the decision of the President of the United States, by him to be decided upon, adjusted, liquidated, and settled, in such manner, and under such rules, regulations, and restrictions, as he should prescribe. A full and final release of all claims, of every description, was accordingly executed by the Georgia commissioners, to the Creek nation; it purported to be in consideration of the two hundred and fifty thousand dollars agreed to be paid by the United States, and was witnessed by their commissioners. For the settlement of these claims, thus referred to the President, a commissioner was appointed, who proceeded to discharge his duty, under certain instructions, emanating from the War Department. Claims amounting to one hundred and eighty-two thousand three hundred and nine dollars were presented to him, of which eighty thousand eight hundred and forty-four dollars were allowed, and ninety thousand five hundred and thirty-eight rejected: subsequently a further reference to the Fifth Auditor was authorized, and some other sums were admitted. The whole amount allowed and paid a little exceeds one hundred and one thousand dollars, leaving upwards of one hundred and forty-eight thousand dollars of the two hundred and fifty thousand dollars, still in the hands of the United States, and applicable, as Georgia contends, to the payment of the just claims of her citizens. It is worthy of remark that, of the rejected claims, a very inconsiderable amount indeed were condemned as fraudulent, or refused payment for insufficiency of proof. By far the greater number were denied indemnity because they were for property destroyed, and, according to the decision of the commissioner, in conformity with his instructions from the Department of War, they are alleged not to be provided for by the treaty.

This construction seemed to him an extraordinary one. It was not his purpose to reflect on the commissioner, or the Department; but, in justice to himself and his constituents, he must be permitted to make, and to defend, that assertion. First, it is to be observed that the reference to the President is of all claims on both sides. The submission is general, not restricted. Next, the release is unlimited; and in that respect it conforms to the compact. That instrument requires the commissioners of Georgia to execute a release for all property taken or destroyed. Can it be imagined that the renunciation and the obligation to indemnify were not intended to be co-extensive? Why ask us to release all claims for property destroyed, if such claims had already been extinguished? What is the principle upon which these claims for property destroyed have been disallowed? In his fourth instruction, the



Secretary of War directs the commissioner to exclude all claims originating during a period of hostilities, which was followed by a treaty of peace, unless they are provided for by that treaty. This, he says, is a principle perfectly well established between civilized nations, and is believed to be equally applicable to savages. Now, why should the maxims of international law, established among civilized people, be extended to Indians, to whom they are unknown, and by whom they would never be regarded? They are not an independent people. In the progress of the negotiations of Ghent, our Government have expressly declared that they are not to be deemed so. That pretension has again been repelled by the President in his late Message. The agreements entered into with them are not treaties. The Senate have so decided. Even if they were independent, they are uncivilized. They do not abide by the rules of civilized warfare. Why, then, should we apply to them the rules of civilized pacification? Nations claiming to be civilized, do not usually plunder or destroy private property on land. Savages never respect it. To exempt them, on the return of peace, from all responsibility for such outrages, is to encourage them in their barbarity.

Mr. W. said that, before leaving this part of the subject, he would advert to the terms of the several compacts or treaties, recognizing these claims.

The first in order was the

*Treaty of Augusta*—made with Georgia, in 1783. The second article provides "that all just debts due by any of the said Indians to any of the merchants or traders of the said State, shall be fairly and freely paid; and all negroes, horses, cattle, or other property, taken during the late war, shall be neutral."

The next was the

*Treaty of Galphinton*—made with Georgia, in 1786. The eighth article stipulates: "The said Indians shall restore all the negroes, horses, or other property, that are or may be among them, belonging to any citizen of this State, or any other person or persons whatever, to such person as the Governor shall direct."

Then succeeded the

*Treaty between Georgia and the Creeks, at Shouder Bone*, in 1786, which recognized pre-existing hostilities, and renewed pacific relations. By the second article, it is agreed that "All negroes, horses, cattle, and other property, now in the nation, and which were taken from the inhabitants of Georgia, shall be restored to such person or persons as his honor the Governor, or the commissioners, shall direct. All white or other free people in the nation, who are held as prisoners or slaves, shall also be delivered up to the aforesaid persons."

After these came the

*Treaty of New York*, with the United States, in 1790. The third article declares, "The Creek nation shall deliver, as soon as practicable, to the commanding officer of the troops of the United States, stationed at the Rock Landing, on the Oconee river,

all the citizens of the United States, white inhabitants or negroes, who are now prisoners in any part of the said nation. And if any such prisoners or negroes should not be so delivered, on or before the first day of June ensuing, the Governor of Georgia may empower three persons to repair to the said nation, in order to claim and receive such prisoners and negroes."

To the treaty of New York succeeded the

*Treaty of Colerain*, in 1796. The seventh article engaged "that the Creek nation shall deliver, as soon as practicable, to the Superintendent of Indian Affairs, at such place as he may direct, all citizens of the United States, white inhabitants and negroes, who are now prisoners in any part of the said nation, agreeably to the treaty of New York, and also all citizens, white inhabitants, negroes, and property, taken since the signing of that treaty. And if any such prisoners, negroes, or property, should not be delivered on or before the first day of January next, the Governor of Georgia may empower three persons to repair to the said nation, in order to claim and receive such prisoners, negroes, and property, under the direction of the President of the United States."

In 1802 was negotiated the

*Treaty of Fort William*—A treaty of limits and cession. The second article provides for the payment of various sums of money, in consideration of the cession of land made by the Indians. Among the rest, "five thousand dollars, to satisfy claims for property taken by individuals of the said nation, from the citizens of the United States, subsequent to the treaty of Colerain," &c.

Then came the

*Capitulation with General Jackson*, in 1814. The fifth article declares, "that the United States demand that a surrender be immediately made, of all the persons and property taken from the citizens of the United States, the friendly part of the Creek nation, the Cherokee, Chickasaw, and Choctaw nations, to their respective owners."

In deciding upon the claims presented, the terms of these treaties have been considered as confined to that of 1821, in conformity with the instructions of the Department. This is contrary to every fair rule of interpretation. It should have been held to extend to them, not they to restrict it. The verbal criticism which attempts to establish a distinction between the obligation to pay for property taken and that destroyed, is worthy only of kindred answer. It must have been taken before it was destroyed.

In what he had said, or should say, on the subject of their decisions and instructions, he disclaimed every thing like disrespect or personal feeling. For the character of the commissioner he had the highest esteem. He was sure that gentleman suffered pain, whenever he was obliged to refuse indemnity to an honest claimant. To the then Secretary of War he imputed nothing, except a somewhat rigorous and contracted exposition of the treaty. He trusted he should always, whether in the majority or the minority, with the administration

JANUARY, 1829.]

*Georgia Claims.*

[H. OF R.]

or the opposition, have respect enough for himself to avoid assailing the motives of any officer of Government. He would, when it was necessary, comment with freedom upon their acts, never forgetting, however, that forbearance which was due to men who were not, and could not, be present in person to defend themselves. What is, in effect, the official agreement upon these treaties? That the agreement is to restore; and property destroyed is insusceptible of restoration. And what follows? That the Indians, having agreed to restore what they could not restore, are to pay an equivalent? No, sir, they are to be discharged from all liability, because they shall not be held to perform what was impossible. Such was not the argument maintained by the Government of the United States, on the treaty of Ghent and the Convention of St. Petersburg. There the undertaking of Great Britain was to restore. When it was found that she could not, or did not restore, what was exacted from her? A just indemnification. Must he, then, be driven to ask, whether the United States have one measure of justice when they demand it of an adversary, and another when they are to render it to a friend?

The claimants contend, and with great apparent reason, that they are entitled to

Payment for property destroyed;

An allowance for the increase of negro property; and

An allowance for the use or hire of property not susceptible of increase, or interest in lieu of these allowances.

The first class of claims had already been considered. The justice of them, and the futility of the verbal distinction between "taken" and "destroyed," is indirectly admitted by the Committee on Indian Affairs themselves. Then, as to the other allowances claimed, upon what footing do they stand? The savages, immediately upon the conclusion of each compact or treaty, were bound to restore the property comprehended in it. Had the restoration been made in good faith, according to the treaty, the owner would have had the use and increase of his property from that period: *i. e.*, from 1788, '85, '86, '90, or '96, as the case may be, to the present time. But the Indians, in defiance of the treaty, keep the slaves. They retain them, ten, twenty, or thirty years, enjoying the fruits of their labor, and that of their offspring. This is no imaginary case. It is notorious that the plantations of many of the chiefs were stocked with negroes stolen from the whites.

The question, then, is this: Are the Indians, in consequence of their bad faith, to be placed in a better situation, and the owner of the property in a worse one? This would be to reward the savage vices of fraud and perfidy with the spoils of an innocent and suffering people. Upon the failure to restore, according to the compact, what were the claimants entitled to receive? Precisely what the United States demanded and received under the treaty

of Ghent—a just indemnification for the property not restored. What is a just indemnity in such a case? Let us inquire of the constitutional adviser of the President, whose opinion the Government adopted. "What," says the Attorney-General, "is a just indemnification for a wrong? Is it the reparation of one-half or two-thirds of that wrong?" On these few simple ideas the whole question turns. If an injury is justly redressed which is only half redressed, then the British commissioner is right; but if an injury is redressed only when the redress is commensurate with the whole extent of the injury, then he is wrong. Let us put aside the emphatic and striking word just, and take the word indemnification alone. What does the word indemnification mean? The saving harmless from damage. Is that man saved harmless from damage who is left to bear one-half of the damage himself? The question seems, to me, too plain for discussion. The British commissioner, Sir John Nicoll, who composed part of the Board, under the seventh article of the treaty of 1794, seems to have entertained a very different opinion upon the subject from his countryman who is now sitting to execute the emperor's award. His words are, "To reimburse the claimants the original cost of their property, and all the expenses they have actually incurred, together with interest on the whole amount, would, I think, be a just and adequate compensation. This, I believe, is the measure of compensation usually made by all belligerent nations for losses, costs, and damages, occasioned by illegal captures." Now, at the time of the wrongs now under consideration, we were, as to Great Britain, neutrals and friends, and stood protected, by the most sacred of all instruments, a treaty of peace. In violation of this treaty, the slaves and other property of the American citizens were carried away, in the year 1815, and have been detained from them ever since. They have thus lost the use of this property for eleven years. Is the meagre return of the average value, at the time the slaves and other property were thus taken from them, a just indemnification for the whole wrong? That the act of taking away the property was a wrong, is no longer a question. The first act of dispossession being thus established to be a wrong, is the continuance of that dispossession for eleven years no wrong at all? Is it consistent with that usage of nations, which Sir John Nicoll recognized, to redress an act of wrongful violence by the return, at any distance of time, of the naked value of the article at the date of the injury?

Upon the whole, sir, I am of the opinion that the just indemnification awarded by the emperor involves not merely the return of the value of specific property, but a compensation, also, for the subsequent and wrongful detention of it, in the nature of damages. If the actual damages, in each case, could be ascertained, they ought, under the award, to be de-

creed: but, since this, if not impracticable, would be a work of great labor and time, I am of the opinion that the interest, according to the usage of nations, is a necessary part of the just indemnification awarded by the Emperor of Russia.

Mr. McLEAN, of Ohio, (Chairman of the Committee on Indian Affairs,) said that, as one of the majority of the committee who approved of the report now under consideration, he considered it his duty to oppose the motion of the honorable gentleman from Georgia, and briefly to assign the reasons which had influenced him in forming his opinion upon the subject. The first question which presents itself in this investigation is, whether, upon a fair construction of the provisions of the treaty, the Indians are entitled to the residue of the money, after paying the claims of the citizens of Georgia. Upon this point there is a difference of opinion, not only among the members upon this floor, but also among others equally competent to understand it, and who have investigated it. If the Indians are entitled to the residuum, no proposition can be more clear than that Congress do not possess the right or the power to legislate upon the subject, without the consent of the Indians. In order to determine to whom the balance of this money does belong, if any balance there should be, after satisfying the claims of the citizens of Georgia, it is only necessary for gentlemen to turn their attention to the treaty between the United States and the Creek Indians, held at the Indian Springs, in 1821, and to the Article of Agreement then and there entered into, between the Indians and the representatives, or commissioners, appointed by the State of Georgia, in behalf of their citizen claimants. By the provisions of that treaty, the Creek Indians cede to the United States a certain portion of their country, for which the United States agreed to pay them, in certain instalments, the sum of two hundred thousand dollars. In the latter clause of the fourth article of that treaty is contained the stipulation which gives rise to the present discussion, and which is as follows:

"And as a further consideration for said cession, the United States do hereby agree to pay to the State of Georgia, whatever balance may be found due, by the Creek nation, to the citizens of that State, whenever the same shall be ascertained, in conformity with the reference made by the commissioners of Georgia, and the chiefs, head men, and warriors, of the Creek nation, to be paid in five annual instalments, without interest, provided the same shall not exceed the sum of two hundred and fifty thousand dollars; the commissioners of Georgia executing to the Creek nation a full and final relinquishment of all claims of the citizens of Georgia against the Creek nation, for property taken or destroyed prior to the act of Congress of one thousand eight hundred and two, regulating the intercourse with the Indian tribes."

The Article of Agreement between the rep-

representatives of the Georgia claimants and the Indians, referred to in the foregoing clause of the treaty, is in the following words:

"Articles of agreement entered into between the undersigned commissioners, appointed by the Governor of the State of Georgia, for and on behalf of the citizens of said State, and the chiefs, head men, and warriors, of the Creek nation of Indians. Whereas, at a conference opened and held at the Indian Spring, in the Creek nation, the citizens of Georgia, by the aforesaid commissioners, have represented that they have claims to a large amount against the said Creek nation of Indians: Now, in order to adjust and bring the same to a speedy and final settlement, it is hereby agreed that all the talks had upon the subject of these claims, at this place, together with all claims on either side, of whatever nature or kind, prior to the act of Congress of 1802, regulating the intercourse with the Indian tribes, with the documents in support of them, shall be referred to the decision of the President of the United States, by him to be decided upon, adjusted, liquidated, and settled, in such manner, and under such rules, regulations, and restrictions, as he shall prescribe: Provided, however, if it should meet the views of the President of the United States, it is the wish of the contracting parties that the liquidation and settlement of the aforesaid claims shall be made in the State of Georgia, at such place as he may deem most convenient for the parties interested; and the decision and award, thus made and rendered, shall be binding and obligatory upon the contracting parties."

In pursuance of the provisions of the treaty, and in conformity with the Article of Agreement, the President of the United States appointed a commissioner, who, after giving full notice to the parties interested, proceeded to the State of Georgia, to receive all claims which might be presented, with the evidence in support of them; and under certain rules and regulations prescribed to him, by Mr. Calhoun, the then Secretary of War, under the direction of the President, to decide upon the respective claims. This commissioner, Gen. Preston, of Virginia, made report of his proceedings to the President, recommending the payment of a certain portion of the claims, and rejecting others. The President, after a full investigation, approved the report, and has caused to be paid to the citizens of Georgia the sum of one hundred and one thousand three hundred and nineteen dollars, and twenty-two cents, being the whole amount of claims, in the judgment of the President, which ought to be paid under the provisions of the treaty. If, then, the Indians are entitled to the residue of the two hundred and fifty thousand dollars, what right have we to interpose, without consent of the parties, in violation of their express stipulation, and in violation of the decision made by the President, who was the arbitrator mutually chosen and agreed upon by the Indians and the claimants, and whose decision, it was expressly agreed, should be final and conclusive?

But, it has been said the Indians are not an

JANUARY, 1829.]

*Georgia Claims.*

[H. OF R.]

independent people. Suppose, for the sake of the argument, they are not, in the fullest sense of the term, it does not follow that they have no rights; and if they be entitled to the balance of the money, well may it be contended, that, without their consent, Congress cannot interpose, and say, the President has decided incorrectly. With just as much propriety might we take jurisdiction of an ordinary arbitration between two individual citizens: for it must be observed that the Government of the United States is not a party in this agreement or submission. It, therefore, follows, as a matter of course, that those who believe the Indians are entitled to the overplus money, must vote against the proposition of the gentleman from Georgia, which goes to reverse the report of the committee. Mr. McL. said, from a thorough investigation of the whole subject, and much reflection upon it, he had come to the conclusion, that the Indians are not entitled to the balance of the money which may remain after satisfying the claims of the citizens of Georgia, but that it of right belongs to the Government of the United States. The stipulation in the treaty is, to pay whatever claims shall be found due to the citizens of Georgia, in the manner therein specified, provided they should not exceed two hundred and fifty thousand dollars; it is not an agreement to pay an absolute sum, but to pay so much as should be found due, not exceeding a certain sum; and it is fair and reasonable to conclude, that the Indians did not look, as a consideration for their lands ceded, to any balance of the two hundred and fifty thousand dollars, but were content to receive the two hundred thousand dollars paid them, and to be relieved from the claims of the citizens of Georgia; the United States took upon themselves the risk, only stipulating that it should not exceed a certain amount. In this view of the case, therefore, Congress may legislate upon the subject, and, indeed, ought to do so, provided they are satisfied there are yet outstanding claims, intended to be embraced within the provisions of the treaty.

Mr. McL. said he could but regret that the Committee on Indian Affairs, had not in their possession, at the time, or previous to making their report, a document now before us, from the War Department, containing a schedule of all the claims which had been exhibited to the commissioner, and upon which the President has decided, some of which have been rejected, and the reason for their rejection given. If the committee had been in possession of this document in time, their report would have been, perhaps, more satisfactory and more specific, although their conclusion and decision would have been the same. From this schedule it will be perceived that some of the claims are more than fifty years old, and most of them more than forty years' standing; this does not prove them unjust, but it is a circumstance which would seem to require some degree of scrutiny into their merits. Complaint is made,

by gentlemen who advocate these claims, that the instructions from the Secretary of War, under which the commissioner acted, in their adjustment, were in violation of the treaty stipulation, and contrary to the obvious understanding of the parties; that it was not the intention of the contracting parties, the Indians, and the representatives of the Georgia claimants, to invest the President with authority to reject any portion or class of claims, provided they originated prior to 1802; the only object in submitting the subject to his arbitrament was, that he should receive the evidence, and decide upon its sufficiency, no matter what the nature of the claim, or when it originated; if prior to 1802, he was bound to pay it. This is the argument of the gentleman from North Carolina, (Mr. CARSON,) and the same position is assumed by gentlemen from Georgia, who have presented their views. Now, with all due deference to the opinion of these gentlemen, Mr. McL. said he entertained, and must be permitted to express, a different opinion. What is the language of the submission, or agreement of the parties? That "all claims on either side, of whatever nature or kind, prior to the act of Congress of 1802, regulating intercourse with the Indian tribes, with the documents in support of them, shall be referred to the President of the United States, by him to be decided upon, adjusted, liquidated, and settled, in such manner, and under such rules, regulations, and restrictions, as he shall prescribe." Is it not clear—is it not conclusive—that the whole subject, without limitation, was submitted to the discretion of the President? Most assuredly it is.

If, however, from an examination, it shall be found that injustice has been done to the claimants by the instructions given by the Secretary, or by the decision of the President upon them, then it may be proper for Congress to interpose, and grant relief; but, for himself, (Mr. McL.), he believed full justice had been done under the provisions of the treaty, and he did not believe a single case could be pointed out, in the long list of claims now presented, which was intended to be provided for, and which had not been paid. It is urged that the President had no right to look to any previous treaties which had been made with the Creek Indians, but ought to have allowed and paid all claims founded upon the destruction of property, whether provided for in the treaty which may have followed such destruction or not. Why, then, refer the matter to the President at all? Why was not the whole sum of two hundred and fifty thousand dollars paid over at once to the representatives of the Georgia claimants, by them to be distributed? The reason is obvious: a part of the claims were controverted, and a reference to some tribunal, to adjudicate upon them, was necessary. But, it is said, a schedule of claims, amounting to two hundred and eighty thousand dollars, was exhibited at the making of the treaty. And

what does that prove? Most clearly, that a portion of them was considered unjust, or the money would have been handed over, as before remarked, and paid at once. If this schedule of claims was so exhibited at the making of the treaty, were not all previous treaties which had been holden with the Creek Indians also looked to, and understood at the time? And, if it was the intention of the parties to go behind those treaties, would not that intention have been expressed in some shape? It is well said, by the Attorney-General, in giving his opinion, that "the nature of this debt was to be ascertained only by reference to those antecedent treaties which have been made between the Creeks and the State of Georgia, and between the United States, acting in this behalf, for the State of Georgia, and the Creeks—to which this treaty of 1821, at the Indian Springs, must be considered as having relation."

Let us, then, for a moment, examine those previous treaties; and here it is to be remarked, that the treaties holden with those Indians prior to 1790, were holden by the State of Georgia herself. The first at Augusta, in 1783, at Galphinton, in 1785, Hopewell, in 1786, Shoulder Bone, in the same year.

"In all these treaties, (says the Attorney-General,) the stipulation, on the part of the Indians, which fixes the character of this debt, is, to restore the negroes, horses, and other property, now (that is, at the time of the respective treaties) in the nation, to such person as the Governor should appoint, &c. Not a word concerning compensation for the detention, nor compensation for any negro, horse, or other animal, that had previously died of disease, or had been consumed in the use. It is, simply, a naked engagement, on the part of the Indians, to restore the specific property, so far as it could be done; that is, so far as the property was still in being, and within their reach. Here the stipulation stops; this is the whole extent of the duty, or debt. The United States, in assuming the responsibility of the Indians, under these treaties, undertake to do only what the Indians ought to have done; that is, to restore the specific property within the reach of the Creek nation, at the date of each treaty; but, this being impracticable the only thing that remains to be done, and which is practicable, is, to pay, in commutation, the value of the article, at the time at which it should have been delivered."

The first treaty with the Creek Indians, by the United States, was holden at New York, in the year 1790, the second at Colerain, in 1796, the third at Fort Wilkinson, in 1802. In all those treaties, a stipulation is inserted, similar to the provisions contained in the previous treaties made with those Indians, by Georgia herself, for the restoration of all negroes and property then in their possession, belonging to the citizens of Georgia, but no provision, in any one of them, for payment of property which may have been, previous to the respective treaties, destroyed by said Indians.

The first agreement of the Indians to pay for property destroyed by them, is contained in the treaty at the Indian Springs, of 1821, and it is

contended that this general provision should extend back, without regard to time, and without reference to any antecedent treaty. The decision of the President has respect to all previous treaties, and he, with great propriety, has determined that all property, of every description, which was stipulated to be restored and given up by the Indians to the citizens of Georgia, in any and all the aforesaid treaties, whether holden by the State of Georgia, or by the United States, with the Creek Indians, and which they may have destroyed, or neglected to restore, should be paid for; and all such has been paid. It has also been determined that all property taken or destroyed by said Indians, after the treaty of 1796, up to 1802, the time fixed by the parties, should be paid for; and all such claims have been received and paid. The agreement, then, in the treaty of 1821, to pay for property destroyed, must have been intended to apply to the destruction of property which it had been provided, in previous treaties, should be restored, and which may have been destroyed, or never returned; and for property destroyed after the treaty of 1796, up to 1802. Every treaty with the Indians, or with any other nation or power, containing a provision for the payment of certain specified claims, carries with it evidence of a final adjustment, or settlement, and the exclusion of all pretence of claims not provided for. The very nature of these claims, many of them being for horses, which strayed into the Indian country, and for negroes, who had eloped from the service of their masters, and taken refuge in the Indian country, shows the necessity and propriety of having reference, in their adjustment, to previous settlements or treaties. Proof that a negro, who had absconded from his master, or a horse which had strayed from his owner, and may have been seen in the custody of the Indians, although such negro or horse may have died of disease the succeeding day after he was so seen, would fasten upon the Indians the presumption of their destruction by them, and the obligation to pay. It is impossible it could have entered into the head of the commissioners, or the Indians, at the treaty of the Indian Springs, that the particular clause in the article of the treaty now under discussion was to have reference back, without regard to other treaties which had been made, to the first settlement of the country.

Mr. OWEN said it was not his purpose to have taken part in this discussion; nor upon the mere question of claim was he now disposed to say much. But, in the discussion, points had been raised, on which he had long wished most fully to give his views. But before passing to the object I have mainly in view, said Mr. O., I will notice the direct question now before the committee; and that is, whether "further legislation upon this subject be now necessary, or not?" If the claims of Georgia are believed to be valid, further legis-

JANUARY, 1839.]

Georgia Claims.

[H. OF R.]

lation is necessary; if it is believed (and such seems to be the prevailing opinion from the current of the debate) that, should there be a surplus, after satisfying the claims of Georgia, that surplus goes to the Creek Indians, then further legislation is necessary; and the Chairman of the Committee on Indian Affairs has said an appropriation is requisite: this, I conceive, is an admission that the direct question before us must be decided in the affirmative. But, as I design, as far as practicable, avoiding the grounds previously occupied in the debate, on the question of right in the citizens of the State of Georgia, my remarks will be but few, and intended more to show the committee the grounds on which my own conclusions have been arrived at, than with a view to convince others. I shall not, therefore, advert at all to the treaties of 1790, 1796, and 1802, nor to any other than the treaty of 1821, entered into at the Indian Springs, between the Creek nation of Indians, and the United States, with the assent of the State of Georgia. What were the considerations that led to the formation of that treaty? Those of the United States were to extinguish the Indian title to lands in Georgia, in pursuance of the compact of 1802; those on the part of the Indian nation were to obtain a valuable consideration for that which was in fact but of little value to them, to gratify the wishes of the Government, and to satisfy the claims of Georgia. The item in the treaty which now claims our attention gives plainly the reasons that influenced Georgia: they were, to obtain full indemnity for losses long since sustained by her citizens by Indian aggressions. To compass these ends, the Indians, for such considerations as they approved, ceded millions of acres of land to Government, and demanded full and final release from Georgia for all the property lost or destroyed anterior to 1802. These were given. The United States stipulated that, for this release, a sum not exceeding two hundred and fifty thousand dollars should be set apart, which was to be applied under the direction of the President.

Here, then, the question now under consideration, embraced entirely in the fourth article of the treaty of 1821, presents a covenant, to the perfecting of which the assent of three parties was requisite, each accomplishing its respective object, and each obtaining its due consideration therefor. The Indians, for their security, required and obtained a full release from the State of Georgia. The United States Government, for her security, fixed the maximum of two hundred and fifty thousand dollars, beyond which amount Georgia should not go. Georgia, alone, is left indefinite in her rights, and with no security for full indemnity for her full relinquishment. Is this consistent with a just and rational construction of an instrument framed on fair and open principles? or, rather, would it not be considered more consistent with both reason and justice, and more, too, consistent with strict legal principles of ex-

pounding a compact, that, when a full and ample relinquishment of right is demanded, an equally full and ample consideration be given for it? This was evidently the intention of the contracting parties in this instance; but, by some means, in carrying this intention into effect, indemnity for destroyed property is not admitted. If this be correct, why is it thought proper to require that Georgia should relinquish her claim for "destroyed" property? That both terms were used to extend, rather than to restrict the rights of Georgia, is evident to my mind; and this conclusion is clearly sustained, I think, when it is recollected that it was as much a matter of interest to the Indian nation that a relinquishment for destroyed property should be granted by Georgia, as for lost property; because, by our previous treaties, property "destroyed" by the predatory incursions of the Indians, presented the same ground of claim against the nation as for property taken and carried away. This is the reason of the relinquishment: should it not be concluded, then, that the consideration should go, *pari passu*, with it? Nothing, it appears to me, can be more clear. This point it is wholly useless for me to pursue farther, after the able expositions of the gentleman from Georgia, (Mr. WILDER,) and the conclusive and peculiarly apt remarks of the gentleman from Pennsylvania, (Mr. SUTHERLAND,) who has just addressed the committee.

But another position is taken by the Chairman of the Committee, (Mr. McLEAN,) which, though he does not fully give his assent to, yet clearly leaves the impression that it is not marked for his opposition; and that is, that the Indians are entitled to the surplus of the two hundred and fifty thousand dollars, after the satisfaction of Georgia. To this I have no objection to yield him my assent; if the sum stipulated formed a portion of the consideration for the purchase of the Indian right to the soil, then I would say, in law they are entitled to it, if this intention is not fully secured by the terms of the compact; but that it is evident that, with this surplus added to the sums paid by the United States, it falls short of the value of the acquisition from the Indians, I would say that equity would appeal most powerfully in their behalf. But the chairman's position is, that in this matter the Indians have their rights; and, without their voice being heard, we have not the power to take steps or prescribe measures.

This brings up the important and unsettled principle of the powers and rights pertaining, by the principles of our Government, to the Indian tribes within the limits of any of the States of this Confederacy. I am glad, sir, that this question is raised; though this is more properly a question of claim on the one hand, and the obligation of Congress to allow it on the other, yet, as it is presented, I will meet it. Therefore I claim the farther indulgence of this committee, while I give fully my views upon this branch of the question.

Though I give no sanction to the idea of the obligatory force of Indian treaties, there are some here who respect them, and emphatically affix to them all the force of the most grave national compact between civilized nations. To this point, therefore, I claim your indulgence; it is due, sir, because, such has been the practice of this Government on this question, based on error, as I conceive, that it now presents the most difficult and intricate question that now comes before Congress; even more complicated than our whole fabric of foreign relations, and more difficult of control than any other of our home affairs. In entering upon the examination of a question of this character, if I were disposed, I could not restrain the current of thought that carries me to the contemplation of the number and condition of this people, when the will of Divine Providence gave foothold to civilization on this hemisphere. It is difficult to conceive of a state of greater independence than they enjoyed; and though the state of their benighted minds prevented them from the enjoyment of that happiness that nature's bounty presented, yet we know that, if climate the most benign, and soil of the most fertile character, could render savage happiness complete, theirs was so—a people whose numbers, to use their own figurative language, were equal to the leaves of their own impenetrable forests, roaming over a continent extending through frigid, temperate, and torrid zones, now so diminished that the limits of a single country, nay, town, would afford them ample room and ample sustenance. Can the inquiry be restrained, how these things are? Whether they result from the policy of the civilized Governments which have controlled their destiny; or whether they be from the high and inscrutable source of all good and all power over the deeds and actions of men? Be these things as they may, the fact is, and to our senses it bears actual attestation, that their numbers have dwindled to nothing; and though millions have been expended in ameliorating their condition, by the introduction among them of the arts and habits of civilized life, yet, if possible, they are less happy, more wretchedly poor, and equally as savage, as at the day of the landing of the pilgrims, now two centuries gone by. To the philanthropist, these considerations are fraught with pain; and to the statesman, whose contemplations are directed to improve the condition and promote the happiness of his fellow-beings, there is but little to smooth the pillow of repose, or to sweeten the draught of approbation, presented by the consciousness of having deserved it. To trace, however, the whole train of public or political acts, intended to operate upon this people, from the earliest period of our settlement among them, or to examine the various ideas of what was considered as belonging to their rights and privileges, through the different ages of our people to the present day; to note their mutations for condemnation or ap-

proval, though most ample and interesting subjects in themselves; does not come fully within the scope of my present purpose. One main object I have in view, as remarked in the outset, is, to trace the extent of the power of the General Government over this people; to that end, considerable detail will be found to cumber my remarks, and no unfrequent reference, of course, to early documents, now forming a portion of the archives of this nation.

Though it is not in the memory of any man that now lives, yet it seems green to the recollection of us all, so minute is the detail of history—and even the tales told by tradition yet live among us—how our forefathers treated the wild savage of America on their first landing and establishing a home among them, that what we now know to be facts, not to be questioned or contested, might, in other times, have been considered fables created by the ingenious, or the fictions of fancy. Could it be credited, in times long since gone by, that the wild, uncultivated savages of the desert, among whom the lights of science and civilization never beamed, at their first interview with civilized man, showed an innate principle of hospitality, and manifested some of the finer traits of the human heart, which have wholly disappeared since their communion and constant intercourse with the learned, powerful, and virtuous European, for more than two centuries! Nevertheless, we know this to be the fact; and that the mass of that species of our being has continued to grow worse; and that, instead of learning of us our virtues, they have cultivated our vices; and that the means are most amply afforded by ourselves, of their most fully giving nurture to, and the practice of, all that are the most debasing and abject in the human character. It is a consideration worthy and proper to be investigated, then, in whose hands are placed their government and control; and, if we find these properly placed, to see if they be not most foully abused. To the ascertainment of this point, I will recur to the principles of the first founders of the ancient English colonies; and though I may be told that this took place in days of religious bigotry and enthusiasm, that made Omnipotence itself partial, and therefore unjust, I think something may be drawn that will have some bearing on this question; and to say that what was done in the days of James the Second, of England, was the result of imbecility, will not be a sufficient refutation of the argument I claim to be based upon the usages of that day. The principle, then, I presume, is not now to be contested, that, on the discovery of this continent, although it was peopled with myriads of Indians, it was claimed by the civilized power making such discovery, by the right of discovery, and that right was afterwards sustained at the point of the bayonet; and according to the principles of all the Governments among which the whole continent, north and south, was partitioned, the soil was claimed, and that right was not only en-

JANUARY, 1839.]

*Georgia's Claims.*

[H. OF R.]

forced by power, but it was actually sanctioned and supported by the *jus gentium*, the law of nations, then governing and controlling the civilized world; and, in the sequel, though we claim to have advanced in liberal principles far beyond those of two centuries gone by, I think I will be able to show that such is now the code of moral principle, the now national law, which controls the actions of nations even to this day.

By recurring, then, to our earliest history, we find that, though we found this continent peopled, we scrupled not to take lands, on which we founded the homes that now extend through and cover the whole of our limits. The modes resorted to, to prevent embarrassment and difficulty with the natives, were various; those used by the Crowns were bribes and intimidations—those used by the individuals, were frauds and presents. I use these terms intentionally, because these are the terms now so familiar in canvassing this subject at this day; and although, in the history of the times to which we have to recur, these terms are not used, yet it is quite easy to perceive that what was then done was quite like unto what is done now. So early as the year 1665, we find that actual difficulties had taken place between individuals and the natives, by reason of purchases made of Indians of the same lands by different persons.

The fact of a controversy of this character proves that individuals possessed the power and right to make such purchases as they might think proper. If, however, other proof is required, we have it by recurring to the proclamation of October 7, 1763, in which this right is expressly recognized as having formerly existed, but from that date to be abrogated, and retained to the Crown. Before farther reference to this proclamation, I will remark that the principles therein developed, be they what they may, are not from the fanaticism of James, but from the more able and more imposing House of Brunswick. As above remarked, I will here observe, that the acquisition of Indian territory, from the days of the landing of our fathers at Jamestown or Plymouth, up to the date of this proclamation, belonged exclusively to individuals of the different settlements or colonies, or to Governors, or other functionaries; and as all the land was called and admitted to be crown lands so soon as reduced to the possession of a white man, no matter by what means, the charge of quit-rent accrued, and the same charges (all being very limited) in favor of the Crown, that were actually exacted, when the mode of acquiring possession of Indian lands was changed by the proclamation of 1763.

One consideration must not be here omitted, and that is, the reason assigned for causing this change in the mode of acquiring Indian lands. In all the evidence I have been able to collect, it is stated to result from the evil practices of the Indians in selling, more than once, the

same lands; and to prevent the contests that necessarily followed such transactions, it was proper that greater publicity and formality should attend such purchases.

In an early history of New York, this language is used: "The strength and numbers of the natives rendered it necessary to purchase their rights; and to prevent their frequent selling the same tract, it was expedient that the bargain should be attended with some considerable solemnity." So early, therefore, as 1665, the Governor of that province interdicted individual purchases, and, with but little interruption, this practice continued until the enforcement of the king's proclamation in 1763. From this, I desire that it should be kept in mind that, in the formation of our colonial Governments, under the British Crown, the right first existed in the people, in their individual capacity, of purchasing Indian rights; after, because it was found the more expedient, the power of purchasing these rights was claimed and controlled by the Crown itself. Hence the origin of treaty-making; though it must here be remarked, that the same solemnity of ratification was not deemed necessary as attended these acts with nations of the Old World, or at least such point is not affirmatively sustained by British history.

I will now proceed to notice more particularly King George's proclamation in 1763. The whole clause on this point I will here introduce: "And whereas great frauds and abuses have been committed in purchasing lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians; in order, therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our privy council, strictly enjoin and require, that no private person do presume to make any purchase from the said Indians, of any land reserved to the said Indians within those parts of our colonies where we have thought proper to allow settlement; but that if, at any time, any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, and in our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the Governor or Commander-in-Chief of our colonies, respectively, within which they shall lie; and in case they shall lie within the limits of any proprietaries, conformable to such directions and instructions as we or they shall think proper to give for that purpose." This is in language that cannot be misunderstood. No comment, therefore, is necessary. But a single point will here be noticed, therefore; that is, the language used in designating the lands individuals were prohibited from purchasing: "No private person do presume to make any purchase from the said Indians, of any land reserved to the said Indians." Land



reserved to the said Indians. By whom reserved? By the power that claimed the whole soil—the British Crown. If, at this day, a prior right was acknowledged to have existed in the Indians, it needed no reservation on the part of the Crown to give title to the lands on which they were found, when the lands themselves were found. But I need not waste time in the discussion of a question so abundantly sustained by the authors on National Law in all civilized nations, and by such nations so undeviatingly pursued in practice, as the conduct toward, and the right belonging to, a savage people, inhabiting a portion of the earth newly discovered by a civilized nation. Nor need I here recur to the great principle emanating from Divine wisdom and goodness, that gave this globe to man, that the earth should, by his powers and intelligence, be replenished and subdued. Nor is it necessary to create and discuss abstract questions, now easy of solution, but which, in times only a few centuries past, afforded difficulties insurmountable to the most learned and able statesman, as well as the most intelligent and pious philanthropist. Whether our forefathers, by the law of man or God, could claim the soil of the American continent, or not, is not now material to our purpose. It is enough for us that they did so claim it; and that, whatever rights were admitted to the natives, were the result of policy or clemency. Nor shall I inquire how far the true Christian faith, and the refined philosophy of our day, will cause us to execrate the deeds of those who braved the ocean's tempest, endured the privations, nay, the famine, of an uncultivated wilderness, and resisted with success the unbridled fury of a savage people, to lay the foundation of an empire now among the first on the earth; to its people extending greater blessings than any other; and contributing so large a portion to the stock of intelligence and to the store of human comfort, through the whole world, as the present Government of the United States does. The reflection, however, cannot be restrained, that, if these things have been in violation of the rights of one portion of the human species by another, and that, too, without the sanction of Divine law, where were the never-sleeping powers of an all-righteous and controlling Power, that the frail barks that first bore civilization to this shore were not overwhelmed in the vasty deep! If the days of revealing the Divine will to man had not long since gone by, I would not deem it impious to say, that, through the whole progress, from the chimeras, then called, of Columbus, through the whole train of appalling events of discovery voyages, and planting first settlements, down to the final overthrow of British rule in this Confederacy, the will and decree of unerring Providence is too palpably indicated to admit of doubt. As these conclusions come from sober reflection, in aid of those deduced from the governmental decrees of the day, it may

not be amiss to inquire what code of moral or religious law is at variance with them. My research enables me to find nothing adverse to my purpose, from which I must be pardoned for having in some degree digressed. To return: my object is to ascertain in what tribunal was vested the power to purchase lands, or make compacts with the Indians, prior to the independence of these States. And I think it is shown that a power, originally vested in every subject of the British Crown, passed from the subject to the Crown itself; and the administering of that power was confided to the Governors or superintendents of the different colonies. It is not necessary here to recur to the various instances and modes of the exercise of this power. The history of the time is replete with examples well nigh to the acquisition of every separate colony; and, although the practice attendant on the treaty-making of the present day receives no such general condemnation from some quarters, yet impartial examination enables us to discover quite clearly that the ceremony and circumstances attending the land-purchasing of our pious fathers, by the pilgrims, and by Penn himself, are not only now imitated, but the very practices used, and the very considerations given, to induce compliance on the Indians' part, are still most substantially and minutely resorted to, in no material degree varying in consequence of the change of the condition of the two people. We were then weak, and they were strong; policy was the basis of our fathers' system: we are now strong, and they are weak, and what was formerly done from policy, we now do from humanity, or even from charity. The question here inevitably presents itself, Where is now the power vested? That we have already traced to have been in the British Crown anterior to the revolution. No question can arise upon the assumption, or rather the assertion, of the fact, that, upon the acknowledgment of the independence of the States by the British Government, all the power passed from the Crown to the States, respectively, prior to the Confederation. Then, this power belonged to the different States. It is our purpose now to examine what has been done by the act of the Confederation. It is not amiss here to refer somewhat minutely to the history of the times that led to the association of several independent Governments. Many of our day know, of their own knowledge, and all of us know from the traditions of our fathers, or the records of the day, that a portion of the subjects of the British Crown, inhabiting colonies under the royal patent, were driven to demand those rights which belonged to British subjects, but were withheld by tyranny and abuse of power. Demands were unheeded, until they were sustained by force. The bloody contest ensued, which resulted in American independence; and, as each colony had been aggrieved, each colony made resistance, and made common cause. In this

JANUARY, 1829.]

Georgia Claims.

[H. or R.]

alliance, of course, losses had been sustained in common, and obligations in common had also been created. After the commencement of exercising independent Governments, difficulties innumerable and great were presented in devising means of recovering from the losses, and of discharging the obligations, sustained and created in their time of need. A recurrence to that principle which presents itself in the earliest dawning of human intellect here presented itself. Association had been found necessary to success in war: association was considered the only means of sustaining present peace, and securing future independence; therefore the Confederacy was formed: and it must be kept in mind, that, as resistance to a common enemy had first called the principles of confederacy into action, so, to resist common evils, were these principles again to be resorted to: for, let it be remembered, that, for the purposes of internal government, the State Governments were found fully adequate for their intercourse with each other; and, for the regulation of external or foreign concerns, was the Confederacy resorted to. In the performance of this stupendous work were developed the vast powers of the minds of those sages who gave birth to the instrument which was the basis on which rested the principles of our compact. It was not the task of men, forming a society for mutual protection and mutual defence; it was the act of Governments, of nations, forming a society for mutual advantage; and the difficult task of tracing the line which was to distinguish the rights of each from the rights of the whole, was entered upon without a precedent to guide—the whole civilized world opposing many instances adverse, and the nation that we had resisted, powerful in means, and deep in intrigue, using all schemes to defeat it. Thus entered our fathers upon this work, with giant minds and patriot souls; under the guardianship of Heaven, the work was done—an ark of future safety to ourselves, a stumbling-block to our enemies, and the admiration of all future generations.

In the examination of that instrument which is called the Articles of Confederation, we find that, among other things, it is resolved, that [Art. 6] "No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any King, Prince, or State; nor shall any person, holding any office of profit or trust under the United States, or any one of them, except of any present, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign State; nor shall the United States in Congress assembled, or any one of them, grant any title of nobility."

Under the preceding, what is to be deduced? It is commonly said, that this first took from the States the power and right of holding treaties, and vested it solely in Congress. This is

granted; but it is contended, at the same time, that that clause has no reference to "Kings," "Princes," or "States," within the States of the Confederacy, but to "Kings," "Princes," and "States," foreign from our territorial limits, and not within the control and operation of our laws. The term treaty is well known to all civilized nations, and carries with it ideas well understood: it is the highest grade of exercising power that belongs to independent sovereign Governments. A mere compact between a Government and any of its own subjects is not a treaty: it must be a compact entered into by sovereign powers, competent to act, free from, and independent of, the control of each other. If I am correct in this position, and that I am (if it were possible to doubt even) I could adduce conclusive authority, there is no farther need to investigate this delegation of power, this declaration of right; and as it never has been contended that our Federal Government possessed any innate rights, or any powers derived *a jure divino*, but, on the contrary, ever admitted, and most correctly too, that all the powers and rights of the National Government were granted or conceded to it from other Governments, and from the people themselves, to some other concession or grant of power we must look, then, to sustain the position that this power of treaty-making with Indian tribes belongs to the General Government. In continuing our examination of the same instrument, (the articles of the old Confederacy,) we find, in article 9, the following additional delegation of powers to Congress: "The United States in Congress assembled shall have the sole and exclusive power and right of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; fixing the standard of weights and measures, throughout the United States; regulating the trade, and managing all affairs, with Indians, not members of any of the States; provided that the legislative right of any State, within its own limits, be not infringed or violated; establishing and regulating Post-offices," &c. Need I comment on the principles developed in this clause of the charter of the National Government? Upon the subject under discussion, there is no room for doubt—there is no room for quibbling even: the full and ample power of regulating the trade with the Indians, and managing all their affairs, is most undoubtedly given: but the trade and affairs of what Indians? No room to cavil here is left: they are Indians, not members of any of the States. And lest some doubt should here arise, the explanatory proviso is added, "that the legislative right of any State, within its own limits, be not infringed or violated." But a single moment's examination is here necessary before we proceed, I think I may call it adventure, in search of the power claimed and exercised by the National Government.

It is contended that this clause, at the same

time that it grants the power of regulating the Indian affairs, expressly confines and limits the exercise of that power exclusively to Indians not within the limits of any State; or else, why contradistinguish any portion of Indians by the terms "not being members of any of the States?" It is clear to my mind, that it was not only the intention, but that that intention is most fully developed, that the power of regulating Indian trade, and managing Indian affairs, out of the jurisdictional limits of any of the States, was most fully and exclusively given to the Confederacy; but that this power should not be conferred over Indians within any State, unless sanctioned by the legislative authority of such State. If this be not the proper and strictly legal construction of the whole clause, I am at some loss to know what effect to give to the proviso. Without this proviso, no matter what might have been the circumstances of any State, within whose limits there were Indians, there could not be any interference on the part of the Confederacy without the direction and assent of at least nine of the States; the time taken in the procurement of such assent might have been attended with important consequences. To my mind, therefore, it appears quite clear, that, at the same time that unlimited control was given over Indians out of the States, there should be a limited control over Indians within the States; preserving, however, the full and ample legislative jurisdiction and power within the limits of each and any State. It is, therefore, evident that, so far, we have not traced the investment of this power in Congress; but, if our former position was correct, that the whole power of the British Crown passed to the States, respectively, we contend, that, as I have shown you, this power of purchasing lands and regulating Indian concerns, belonged to the Crown, and that it passed from thence into each of the States; and, inasmuch as all power which belongs to the National Government springs from grants and concessions made by these States, and as it cannot be shown that, by the articles of confederation, this power was not granted or conceded, but, on the contrary, expressly retained to each State of which Indians were members, I must maintain the ground that, prior, and subsequent to, the Confederation, the power of regulating Indian affairs, and purchasing Indian lands, belonged, exclusively, to the State within whose limits Indians were.

The next step, in the investigation of this subject, I propose to take, is the examination of the different surrenders of the waste lands, by the different States, to the General Government; and to see if any power was conveyed or relinquished to the National Government, which impaired or lessened the powers retained to the States. I have before observed, that, in the common cause against the common enemy, obligations were created, which, upon the establishment of peace, it was universally con-

ceded should be borne in common. As this led to the formation of a National Government, to regulate commerce, and to secure the collection of customs in aid of the revenue, policy dictated a surrender of property which, though claimed by a few, had been protected and defended by the whole. We see the State of Virginia, with a magnanimity only equalled by her own patriotism, making the greatest sacrifice upon this altar of her common country—her charter, the first and the greatest, embracing within its limits the whole Northwestern territory—reserving to her own State troops the pledges already made in these lands, the whole beside was freely given—embracing, now, the States of Ohio, Indiana, and Illinois. North Carolina surrendered the State of Tennessee upon like condition. To prevent future embarrassment, each State that set up any claim to any of those waste lands made a relinquishment to the United States. Afterwards Georgia sold her claim, from the Chatahoochie to the Mississippi River.

I shall now proceed to the examination of some of the conditions of those grants; and the first I shall notice is that of the great State of New York. Her cession was accepted in 1781; and, after reciting the principles and policy which induced the surrender on her part, which were wholly to promote the general interest, the following are the main conditions on her part exacted. After defining her limits, it follows: "And we do, by these presents, in the name of the people, and for and in behalf of the State of New York, and by virtue of the power and trust committed to us by the said act and commission, cede, transfer, and forever relinquish, to and for the only use and benefit of such of the States as are, or shall become, parties to the Articles of Confederation, all the right, title, interest, jurisdiction, and claim, of the said State of New York, to all lands and territories to the northward and westward of the boundaries to which the said State is in manner aforesaid limited and restricted; and to be granted, disposed of, and appropriated, in such manner only as the Congress of the United or Confederate States shall order and direct." The terms of this cession are clear and intelligible; the whole title and jurisdiction to all lands presumed to be within her charter, beyond the western and northern limits, then defined and established, are fully and completely conveyed to, and vested in, the Congress of the United or Confederate States, to be by said Congress disposed of for the benefit of the whole of such States, and such alone as became, or were, of the Confederacy. Here it is evident that all the power and right that formerly pertained to New York over this whole territory, and, of course, all who dwelt thereon, is transferred and conveyed to the Congress of the United States. But this transfer, it is evident, only extends to the territory surrendered; nothing of her right and jurisdiction to that portion retained, and con-

JANUARY, 1829.]

Georgia Claims.

[H. OF R.]

stituting the State, is at all impaired; but, on the contrary, the very act of surrender and acceptance establishes them beyond question. New York, then, by her surrender of vacant territory, lost no power or right over her own soil and the people thereon. If, therefore, that State has lost any thing of her full and complete sovereignty, it is to be found in the Articles of Confederation alone, up to the period we are now investigating.

The next I shall proceed to is the State of Virginia: Her session was made in 1784. I will here give the language by which the powers vested in her delegates were granted, viz: "To convey, transfer, assign, and make over, unto the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the Virginia charter, situate, lying, and being to the northwest of the river Ohio; subject to the terms and conditions contained in the before recited act of Congress of the 18th day of September last; that is to say, upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the States so formed, shall be distinct Republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence, as the other States." Then follow sundry conditions: expenses for defending the surrendered territory, confirmations of the lands claimed and settled by the French, a special grant to Clarke's regiment and military reservations, and concludes: "That all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the before mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered a common fund, for the use and benefit of such of the United States, as have become, or shall become, members of the Confederation or Federal Alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever."

Afterwards, in 1786, the reservation in respect to the limits of the States to be formed of the territory northwest of the Ohio, was recommended for alteration by Congress, and acceded to, in 1788, by Virginia. This, then, constitutes the whole of the surrender of Virginia, embracing, in full and clear terms, the country surrendered, the extent of the surrender, and the purposes of that surrender. The country surrendered, now composes the States of Ohio, Indiana, and Illinois; and the purposes of the surrender were for the benefit of

the whole Federal Alliance; the extent of the surrender covered the whole unappropriated soil and the entire jurisdiction, vesting, of course, all the right Virginia had in the soil, in the United States, and transferring all her jurisdiction, indirect and collateral, to the United States. Here, as in the State of New York, no right or jurisdiction to the retained limits of Virginia is impaired, or in any manner transferred; the whole transfer is confined to, and limited by, the territory surrendered. In the case of Virginia an important condition is annexed to the transfer, and that is, that, of the territory surrendered, a certain number of States should be formed, which States should be "distinct republican States, and admitted members of the Federal Union; having the same rights of sovereignty, freedom, and independence, as the other States."

The States, therefore, admitted into the Federal Alliance within this ceded territory, must have the same rights of sovereignty, freedom, and independence as the other States, (as Virginia,) who surrendered their soil, had, or as the whole of the States, who received the surrender, had. Virginia retained all her sovereignty and jurisdiction over her own limits entirely unimpaired, save only in the concessions made by the Articles of Confederation. How can the States admitted into the Union under Virginia's surrender come into the alliance with impaired powers or limited rights? It is contended that they have not.

Afterwards, in 1785, Massachusetts made her surrender; and in 1786, Connecticut made hers; in both instances, in the terms and on the conditions of the surrender of New York. In 1800, Connecticut surrendered her Western reserve. In 1787, South Carolina made her cession, with the magnanimity that has ever characterized her public acts, when her country's weal was in question, without price or reward, in terms as follows: "Do by these presents, assign, transfer, quit-claim, cede, and convey to the United States of America, for their benefit, South Carolina inclusive, all the right, title, interest, jurisdiction, and claim, which the State of South Carolina hath in and to the before mentioned and described territory or tract of country," &c. In 1790, North Carolina made her cession; and, as reasons that induced to it, the payment of the public debt and preserving the harmony of the Confederacy are enumerated, and the cession made, after stating the conditions, of which are the reservation of bounty lands, the protection of the people surrendered, &c., the cession then follows: "Do, by these presents, convey, assign, and set over, unto the United States of America, for the benefit of the said States, North Carolina inclusive, all right, title, and claim, which the said State hath to the sovereignty and territory of the lands situated," &c., &c. Here it is to be observed, that the sovereignty is only surrendered over the territory surrendered, impairing, in no degree, either the sov-

ereignty, or right of soil in the States making such surrenders.

The next and last to be examined is the cession of Georgia, in 1802, by an actual compact with the United States. The whole territory west of the Chatahoochie to the Mississippi, now including the States of Alabama and Mississippi, was, by this cession, transferred from Georgia to the United States; and the conditions now proper to be noticed are as follows: The payment, out of the proceeds of the sales of the lands surrendered to Georgia, of one million and a half of dollars; certain land claims to be confirmed; the lands surrendered to constitute a common fund; and that the Indian title to lands still remaining within the retained limits of Georgia to be extinguished, at the cost and expense of the United States; and that "the territory thus ceded shall form a State, and be admitted, as such, into the Union, as soon as it shall contain sixty thousand inhabitants, or at an earlier period, if Congress shall think it expedient, with the same privileges, and in the same manner as is provided in the ordinance of Congress, of the thirteenth day of July, one thousand seven hundred and eighty-seven, for the Government of the Northwestern territory of the United States; which ordinance shall, in all its parts, extend to the territory contained in the present act of cession, that article only excepted which forbids slavery."

Thus, it will be observed, that, so late as the year 1802, it was deemed proper to stipulate, by actual covenant, that the Government of the United States should extinguish the whole Indian title of one of the States, at the actual cost and expense of the General Government; and the execution of this condition is secured, by making it one of the considerations of the surrender of an extensive tract of waste land. Georgia has surrendered the soil, territory and jurisdiction, of the States of Mississippi and Alabama, to the General Government. So far, then, this places this portion of country in the precise situation of the Northwestern territory as surrendered by Virginia, with the single proviso, that one article in the ordinance for the government of that territory shall not be here enforced, viz: the article prohibiting slavery. Is there any thing to be deduced from the surrenders, on the part of the different States, which I have here thought proper, at some length, to introduce, favorable to the treaty-making policy of the General Government with our Indian tribes? On the contrary, I think it is conclusively shown, that, in every instance, except one, this whole matter is exclusively retained in the States making the surrenders. That exception is in the case of Georgia; and the extinguishment of her Indian title is guaranteed. Indeed, no one will contend that, if any thing is granted by the surrenders, it is not proper that the thing granted should actually be expressed in the surrender; nor can any contend that any thing is given up by the sur-

render that is not embraced in it. Therefore, in every instance, the whole of the terms of the surrender are applied exclusively to the country surrendered. The country, therefore, retained, either in government, soil, or jurisdiction, is in no degree affected.

I think I have shown that anterior to these several surrenders, so far as the Articles of Confederation went, the power of controlling this subject belonged exclusively to the several States. If it belonged to the States originally members of the Confederacy, it certainly belonged, in the same manner, to the States subsequently admitted into that Confederacy. But it may be said that the States subsequently admitted were admitted upon certain conditions. This is admitted. But what were those conditions? They are precisely those stipulated for in the terms and conditions of the surrender of the country which they now embrace in their limits. The leading and prominent conditions, then, are, that their constitutions shall be democratic; that there shall be no interference in the sale of the public lands; that certain navigable streams shall be forever free to the citizens of all the States; and that, besides these, to be on a perfect footing of equality with the other States. Some doubt the constitutionality of these conditions, and say that no State can be admitted into the Union without a perfect equality in every respect. This question does not come up. It is enough for the purpose under consideration to show, that, so far as regulating Indian concerns goes, they are not of the stipulations: therefore, whatever rights, on this point, pertain to the old States, unquestionably belong to the new ones. Upon the ground that this right ceased by the State surrendering the territory and jurisdiction to the General Government, it is claimed to have passed into such new State as has been formed, so soon as the consent of Congress has been obtained for its admission into the Union. In other words, all the power and jurisdiction over the surrendered territory belonged alone to the General Government, during its territorial vassalage, and, with the sole exception of the conditions of admission into the Union, are there any exceptions or conditions in favor of the General Government, if even there be such? I do, therefore, claim that, in this respect, there is no shadow of difference in the rights of the States. I think I have shown that neither the Articles of Confederation nor the surrendering of waste lands have divested the several States of the sole and exclusive power over the Indian tribes within their respective limits, that passed into those States, respectively, from the British Crown, by their successful struggle for independence.

The next point of examination I propose, is the Constitution of the United States. Through the various stages of our political existence, the powers of the confederated States have undergone various modifications, until all the power now vested in the Government of the

JANUARY, 1829.]

*Georgia Claims.*

[H. OF R.]

United States, is expressed and circumscribed by that instrument. Nor need we have looked elsewhere in the investigation of this question, unless historic facts had been necessary to explain some of its provisions; and I think that the subject now before us derives that advantage. I have shown that, in the progress of our Government, certain powers for certain specified purposes, were found necessary to be conveyed to, and centered in, one head, to wit: the means of defraying the expenses of a common cause, and of raising a revenue for the payment of a debt created in a common struggle; and, in addition to these, for controlling and regulating a national intercourse with foreign powers, and of regulating all foreign commerce, as well as commerce between the several States. These were the points that presented difficulties; and it was to control these that one common umpire was to be created. That umpire is the General Government, and it is created by the Constitution of the United States. In the history of the different stages of our political existence, was it found that any thing belonging exclusively to, and confined within the limits of, any of the States, claimed a reference to this general umpire? It is thought not. But, on the other hand, it is considered evident, that any thing that did not concern the whole was not to be matter for the management of the power created by the whole. In other words, any thing that was purely of State concern was still to continue so; and a reference to the instrument itself will clearly sustain this position. The powers of Congress pertain to subjects of general concern; and so it is with all other powers of the General Government. But the point now under review is embraced in the 8th section of the first article: in enumerating the powers of Congress, with others, it is said, "The Congress shall have power to regulate commerce with foreign nations, and among the several States and with the Indian tribes." Does this clause grant the power of making a treaty for the extinction of Indian title to lands within any State? Or does the following clause divest the States of the power of purchasing Indian titles to lands within their respective limits? Section 10: "No State shall enter into any treaty, alliance, or confederation, grant letters of marque and reprisal, coin money, emit bills of credit, make any thing but gold and silver coin a tender in payment of debts, pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility." Is this intended to prevent a State regulating the concerns of her own people within her own limits? or is it intended to prevent these things, here enumerated, from being done with others, foreign to herself, so far as the treaty, alliance, or confederation, is concerned? It is conceived that the first clause does not grant the power to the General Government of making treaties with Indians; and the second does not prevent

the States from exercising any power on this subject heretofore belonging to them. But a few remarks will bear me out in this position. Can the Congress, under her power of regulating commerce with the Indian tribes, remove thousands of Indians from one State, and plant them in another? Or can Congress, if any State thought proper to interpose, take Indians from such State? Suppose a State should grant her Indian population the same rights and privileges that are granted to her citizens, and they partook of, and exercised, such rights and privileges, could Congress interpose, and prohibit this policy? Suppose they were made competent to civil rule, could they be deprived of this right by any act of Congress? If these questions are answered in the negative, it will at once present itself, that, if a State interpose obstacles to, other than purely regulating, commerce with Indian tribes, that Congress has not the power to remove them; and, on the other hand, if the State exercise a power over, and grant a privilege to, the Indians within her limits, Congress cannot prohibit it. It must follow, then, that whatever of power is here given, must be over those who are not under the immediate and paramount authority of State jurisdiction. Otherwise, to what absurd consequences would it lead? Might not the President and Senate, at any time, destroy and overrun any one of the States in which there are public lands, by removing the Indians from any other State to such lands? Might not the whole of Mississippi be granted to the Choctaws, Illinois to the Pottawatamies or Winnebagoes, and Alabama to the Muscogees or Creeks? These ideas will be said to be absurd; but these ideas are constitutional if the Indian treaty-making power be so. But in addition to this, where is the power to prevent this same treaty-making power from removing Indian tribes, if you please, and locating them upon the public grounds in this district? Who can prevent the same authority from filling your arsenals, your forts, and other national domains, or possessions, with this greatly favored people? But I am answered and told that the States in which there are public lands can exercise no control, because the land on which the Indian lives, when the title is extinguished, becomes a part of the public lands, and is beyond the jurisdiction of a State Government; and, to sustain this ground, I may be referred to the 4th article of the ordinance for the government of the territory of the United States northwest of the river Ohio, which says:

"The said territory, and the States which may be formed therein, shall forever remain a part of this Confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made, and to all acts and ordinances of the United States in Congress assembled conformable thereto. The inhabitants and settlers in said territory shall be subject to pay a part of the Federal debts con-

tracted, or to be contracted, and a proportional part of the expenses of Government, to be apportioned on them by Congress, according to the same common rule and manner by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The Legislatures of those new States or districts shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers; no tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the Confederacy, without any tax, impost, or duty, therefor."

Has this clause directly, or indirectly, any grant of power to the Confederacy, or any prohibition to the States, in relation to the question under consideration? or is it not known that the soil may be in the General Government, and the people living thereon subject to the municipal regulations of the State in which that soil may lie? It is humbly conceived that this clause of the ordinance does not change the character of the policy originally existing in relation to Indians. But, before I proceed farther, another clause in the before-recited ordinance must be noticed; some have said that it is conclusive on this question; it is the third article, and is as follows: "Religion, morality, and knowledge, being necessary to good government, and the happiness of mankind, schools, and the means of education, shall forever be encouraged; the utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars, authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them." The first consideration that presents itself, in relation to the last-recited article, is, how far this is now a principle of the National Government, in reference to all the Indian tribes, or is it a legislative act, municipal in its character, and exclusively applicable to a region of country in which soil and jurisdiction were exclusively in the National Government? This was so: for it is solely applicable to the territory that but three years before this time belonged exclusively to Virginia: for, let it be remembered that this ordinance is exclusive in its operation to the lands lately sur-

rendered by a State, which State, anterior to this surrender, could have wholly disregarded such ordinance, had it then been made. So far, therefore, from this weakening my positions, it certainly gives them strength, and is fully developed in the history of the day, as being the then received opinion, and thenceforth became the adopted practice of the National Government. What is this history? It has, in part, been already noticed; it pertained to the surrender of the waste lands. Until this surrender, a system of depredation and continual warfare was waged upon the savages, and that too with the sanction of the Government that claimed jurisdiction to the land. This system not only endangered but sacrificed the quiet of not merely the people of the State, who were sanctioned in their Indian wars, so called, but of all the contiguous States. The surrender being made, we find for which, among the other considerations enumerated, "that the necessary and reasonable expenses incurred, &c., in maintaining forts and garrisons within, and for the defence, or in acquiring any part, of the territory so ceded or relinquished, shall be fully reimbursed by the States." This ordinance was therefore adopted for the government of the surrendered territory, and over the Indians therein, and is evidently the assumption of a policy, as contradistinguished from the policy that had heretofore characterized the Government which had just now ceased to exist over this same region of country. I look, therefore, upon this, as being confirmatory of what I have heretofore contended for, to wit: that, if the General Government wishes to enforce this policy in relation to Indian tribes, the lands on which such tribes lived must be excluded from the limits of any State; and this is farther exemplified by this clause never having been introduced into any act specifying the conditions of admission into the Union of any new State, not even of the States formed of the territory over which this ordinance was first made operative.

Thus, in relation to this question, I think I have presented the fundamental principles on which, if it exists in the General Government, it must assuredly rest. If the power to make treaties with Indians residing within the limits of any of the States is now claimed for the General Government, it must be derived from some clause or clauses of the Articles of Confederation, in the voluntary relinquishments made by the States in the conveyance of their waste lands, or in the Constitution of the United States, which I have troubled your patience and consumed your time in bringing into view. For my own part, after this thorough examination, I am the more firmly convinced of the correctness of the positions I have endeavored to maintain.

Mr. GILMER said that, after the ample discussion which the subject before the committee had received, he should content himself with stating one or two facts connected with it, and



JANUARY, 1829.]

*Georgia Claims.*

[H. OF R.]

adding a few necessary comments. The first question (said Mr. G.) which presented itself for determination was, to whom the unexpended balance of the two hundred and fifty thousand dollars belonged, after satisfying the Georgia claimants. He had no doubt that it belonged to the United States. When, however, he admitted this, he wished it to be understood, that, according to his interpretation of the contract between the United States, Georgia, and the Creeks, all parties supposed that, when the contract was faithfully executed, there would, most probably, be no balance whatever. Mr. G. said that this matter would be better understood by a knowledge of the circumstances under which that contract was entered into. In 1821, commissioners, on the part of the United States, proceeded to make a treaty with the Creek Indians, for the extinguishment of their title to lands in Georgia, in pursuance of an appropriation of money specially made by Congress for that purpose; that, according to instructions given to those commissioners by the War Department, (and here he wished the Chairman of the Committee on Indian Affairs to correct him if he were in error,) they were not to exceed ten cents per acre in price, for what they should acquire of the Creeks. That, accordingly, the commissioners had contracted with that tribe that it should cede to the United States, for the benefit of Georgia, four and a half millions of acres, for which they were to receive four hundred and fifty thousand dollars. That, after these terms had been agreed upon, but before the treaty had been signed, commissioners on the part of Georgia presented to the Creek chiefs, claims of the citizens of that State against their tribe, amounting to the sum of two hundred and eighty thousand dollars, and required that they should be adjusted. It was then agreed, between the several parties, that the Creeks should receive of the United States two hundred thousand dollars, in money, for their land, and the remaining two hundred and fifty thousand dollars, which they were to have received, should be paid by the United States, to the State of Georgia, for the benefit of her citizens, who had received injuries from the Creeks; subject, however, to the investigation and determination of the President of the United States. In pursuance of which agreement, (Mr. G. observed,) the commissioners of Georgia gave to the Creek tribe a receipt in full of all claims, debts, damages, and property, which the citizens of that State had against that tribe, prior to 1802. And the United States agreed to pay to the citizens of Georgia, those claims, debts, damages, and property, provided the same did not exceed two hundred and fifty thousand dollars. Mr. G. observed that each of the parties to this contract seemed to have had an equal reason to be satisfied. The Indians had sold their land for a larger consideration than usual, and, with two hundred and fifty thousand dollars of the price, had paid an account which

the Georgians had against them of thirty years' standing, most of which they had frequently acknowledged to be just; and amounting to the sum of two hundred and eighty thousand dollars. The Georgians were very much pleased, because, by the construction which the United States had put upon the constitution, their own State Government had not the power of compelling the Creeks to restore their property, or otherwise to do them justice; by which, previously, it had seemed as if they were to have been deprived entirely of redress for their injuries. And the commissioners of the United States were gratified, because they had been enabled not only to perform the purpose for which they had been originally appointed, by procuring a valuable tract of country for the State of Georgia, but also to render an essential service to a large class of injured citizens. There was also a possibility, that, by assuming the payment of the claims of the citizens of Georgia, with the power given to the President to adjudicate those claims, the United States might have a less sum to advance than that which it would otherwise have been obliged to have paid the Indians. It was to be remarked too, (Mr. G. said,) that the United States commissioners had taken care that this Government should not, in any event, pay more than two hundred and fifty thousand dollars, and with a farther beneficial proviso, that whatever sum should be found due might be paid in five annual instalments, and without interest. Mr. G. observed that, if the view he had taken of the contract between all the parties was correct, he thought there could be no difficulty as to the disposition of what should remain of the two hundred and fifty thousand dollars, after satisfying all the Georgia claimants.

Mr. G. said that he would proceed to show that the United States Government had not done justice to the citizens of Georgia in its adjudication of their demands against the Creek Indians. They had been told that they should be satisfied, because that adjudication was made by an arbiter chosen by themselves. The proper answer to which (Mr. G. said) was, that that circumstance aggravated the feelings excited by the injustice done them, especially as that arbiter had gained in proportion to their loss. This Government never can compensate the citizens of Georgia for the injuries they received from their savage neighbors. Those injuries could not be estimated in money. Mr. G. said that the most rigid rules had been imposed by the Government upon itself, in allowing the claims of the citizens of Georgia. He did not intend to say that the Government intended thereby to do injustice to those citizens. He thought that the peculiar circumstances under which those claims had originated had never been considered by the Government. Had that been done, he believed it would have been convinced that the two hundred and fifty thousand dollars was a very inadequate satisfaction of those claims.



Mr. G. then proceeded to say, that, during the Revolutionary war the inhabitants of Georgia were at one time almost entirely driven beyond its limits, by the Creek Indians and their allies. At its conclusion, feelings of hostility had not ceased to exist. Repeated injuries were inflicted upon the frontier inhabitants, which the weakness of the State Government rendered it unable to punish. Attempts were frequently made to conciliate the Creeks. Treaty after treaty was made, from 1788 to 1790. They were, however, broken as often as made, without the Government having the power to enforce them. The frontiers were very extensive, and the population so scattered that the Indians had an easy access into the country, everywhere, for the purposes of plunder. The people were compelled to protect themselves by fortifications of their own making. Block houses were erected by them, and manned by voluntary service, in order to intercept and punish the predatory parties of the Indians. This service was extremely burdensome to inhabitants just arrived from distant parts of the United States, and with scanty means of support. Mr. G. continued to say that the loss of slaves, horses, and cattle, could not then be repaired by the people, as they could at the present time. The value of such property was far greater then than at present. The country was to be cleared of its forests to fit it for cultivation. Labor was not to be hired. There was no supplying the place of a lost horse, or stolen cattle, because the people, in moving from Virginia and North Carolina, found it difficult to carry with them a sufficient supply for their own use. The loss of cattle (Mr. G. said) was particularly felt, because thereby the people were deprived of their most usual and cheapest means of subsistence. One of the principal inducements to the settlement of the country had been the advantages which its extensive range presented, abounding, as it did, with grass and cane.

The exuberance of the natural vegetation of the country, instead of proving an advantage to the settlers, had been frequently the occasion of their greatest losses, by exposing their horses, and stock to the thieving habits of the Indians. But the injuries (Mr. G. said) which the frontier inhabitants suffered, by having their property plundered and destroyed, were accompanied by evils the extent of which could only be known to those who had felt them. He said it was his fortune to have been a native of the county which bordered both on the Creek and Cherokee hunting grounds. He could yet recollect the horrid views of the Indian scalping knife which were presented to him in the dreams of his childhood. From the commencement of the Revolutionary war, until 1794 and 1795, the Creek Indians continued to commit occasional acts of the greatest barbarity upon the frontier people. The Government had been either unable, or neglected, to furnish the necessary protection to its citi-

zens. After a military force was finally authorized by this Government, and troops had been enlisted from among the people of Georgia, it was a matter of history, familiar to every member of the committee, that those troops had scarcely yet been paid. For more than thirty years, year after year, they had petitioned in vain. Mr. G. said that he had attempted to describe the kind and peculiar value of the property of which the Georgia claimants had been plundered, by the Creek Indians; their continued apprehension of Indian attacks; and the want of protection on the part of the Government; in order to show, more clearly, the injustice which had been done them, by the manner in which their claims had been heretofore adjudicated, and as the best commentary upon the reasoning of the Secretary of War and the Attorney-General.

Mr. G. then proceeded briefly to consider the different classes of claims which he supposed had been improperly rejected. First, that for property destroyed previous to the treaty of New York; secondly, that for interest upon claims which had been allowed; and, thirdly, that for the value of the increase of those female slaves who had been taken by the Creeks, and not restored, according to the conditions of treaties. As to the class of claims for property destroyed, which had been rejected because the treaty of New York did not provide for them, Mr. G. said that the treaty at the Indian Springs specially contracted for the payment of property destroyed prior to 1802. This stipulation of that treaty had been pressed upon the House with its full weight, by his colleagues and other gentlemen. It was not his intention to say any thing more upon that subject. He was desirous of showing to the committee that the provisions of the treaty of New York ought not to affect injuriously the claims of the citizens of Georgia. That treaty, he said, was, perhaps, the first act of the United States Government which usurped power which properly belonged to the States. It was so considered at the time. The first voice heard in the Congress of the United States, against the encroaching spirit of Federal dominion, was from a representative of Georgia, in relation to the treaty of New York. By that treaty the Government of the United States guarantied to the Creek tribe of Indians, lands which that tribe had previously conveyed to Georgia. By it, the United States obtained from the Creeks a stipulation that they would hold no treaty with Georgia. And, by the same treaty, the United States agreed that, if any citizens of Georgia should attempt to settle on lands claimed by the Creeks, such citizens should be placed without the protection of the United States, and punished as the Indians thought proper.

Mr. G. asked the members of the committee to examine that treaty, and judge for themselves whether the citizens of Georgia ought to lose the right to have their injuries redressed, because compensation was not provided by it.

JANUARY, 1839.]

*Georgia Claims.*

[H. OF R.]

What right had the United States Government to place beyond its protection its citizens, who, by virtue of grants of land made to them by the State of Georgia, within her own limits, and in payment to those citizens for revolutionary services, settled on lands which the United States thought proper to consider Indian property? By that treaty, a citizen of the United States might have been burnt at the Indian stake, without the right of rescue by his Government! It was made, too, by one McGillivray, the son of a tory, and an Indian, who felt by inheritance the deepest malignity, and most unrelenting revenge, towards the people of Georgia. What means had the people of that State of making known to the United States Government, at the treaty of New York, their claims for property destroyed? And yet, by their omission to do so, a considerable portion of the injuries received by the people of Georgia, from the Creek Indians, previous to the making of that treaty, were to remain undressed. Was it right for the United States to take advantage of its own wrong?

The second class of claims which had been rejected by the Government, consisted of those the principal of which had been allowed, and upon which interest had been refused. Mr. G. said that he had already endeavored to show that the most liberal allowance ought to be made in favor of all the claims before the committee. He did not consider the claimants as demanding interest of the Government, but as insisting upon the equitable lien they had upon the funds in its hands, for a full and just compensation for the injuries they had sustained. He did not consider that interest upon the value of their losses, from the time when their property was taken or destroyed, would really be ample satisfaction to the claimants for the kind of depredations committed upon them, but as furnishing the only fixed rule by which a uniform estimate could be made. The claim of interest was upon the fund appropriated for the payment of the claims, and not upon the public treasury. The question really was, whether the claimants, whose demands had remained unsatisfied for thirty or forty years, had not a more equitable lien upon the unexpended balance of the two hundred and fifty thousand dollars, for compensation to them for the time they had lost the use of their property, than any right to it on the part of the Government. That compensation to the claimants had, however, been resisted, through the opinion of the Attorney-General. The claimants would have been better satisfied to have had the justice of their demands decided upon by the sense of equity of the Chief Magistrate of their country, by whom, according to compact, they were to have been adjudicated, than by the technical rules of the Government's law officer. That high officer had determined that interest did not follow a claim for unliquidated damages. Nominally, he was right; but, substantially, wrong. The claims were not for un-

liquidated damages, but for specific property in the possession of the Creek Indians, which belonged to citizens of Georgia, and which the Creek tribe, by various treaties, had promised to restore to its owners. If the Indians could have been sued in the courts of law, the remedy for the Georgia claimants would have been an action of trover, in which they would have been entitled to recover their property, or its value in lieu thereof, together with damages equal to the value of the use of the property, from the time at which it had been demanded until the termination of the suit. That was the law of the State within which both parties resided. It was a rule of equity that the compensation for injuries should be fully equal to the loss sustained. Was there any reason why the Georgia claimants should not have that justice done them, by their Government, which one citizen could compel of another, by the strict rules of law? Surely, it was not because the Government had neglected to compel the Creeks to perform the stipulations of their treaties. Had the Government done its duty, the Georgia claimants would have had their property restored to them more than thirty years ago. It could not be said that the State of Georgia had neglected the use of any means in its power to obtain redress for its citizens. [Mr. GILMER then read resolutions of the Legislature of that State, directing the manner in which the claims of its citizens should be proven, and demand made of the Creek Indians.] The Attorney-General had given, as a reason why interest should not be allowed upon the Georgia claims, that the property for which they had been paid had been estimated at double its value. In this he speaks without authority, and most disrespectfully of the United States Commissioners, and the witnesses by whose oaths that valuation was made. There were many other most obvious objections to the opinions of the Attorney-General. He had determined, for reasons peculiar to himself, not to urge that subject any farther. His colleague (Mr. WILDE) had performed that duty, in the most satisfactory manner.

The third class of claims rejected, (Mr. G. said,) was that for the increase of those female slaves who had been taken by the Creek Indians from the citizens of Georgia, and not restored according to the conditions of their treaties with that State, and those with the United States. These claims were founded in that principle of law, by which the issue of female property followed the state of its mother. The right of the Georgia claimants to recover the identical slaves they had lost, was acknowledged by all the treaties having reference to that kind of property. The stipulations of all the treaties was, that the negroes taken from the citizens of Georgia should be restored, and not that they should be paid for in money. If the Indians who were in the possession of the issue of the female slaves could have been sued in the courts of Georgia, by the original owners of

such female slaves, the Georgia claimants would, no doubt, have recovered. The claimants contend for no right but what was sanctioned by the law. The difficulty had proceeded from the impossibility of compelling that branch of the Government which alone had the power of redress in its hands to enforce that right. It was well known to all the Southern gentlemen, that female slave property, which was owned thirty years ago, had yielded a much larger profit than any other equal amount of capital whatever. And hence it was (Mr. G. said) that the Georgia claimants who had lost such property by the acts of the Creek Indians, were entitled to the redress sought for them.

In conclusion, Mr. G. repeated that, by the treaty of the Indian Springs, the Creek chiefs had contracted to relinquish a certain quantity of land to the United States, on condition that it would pay to them two hundred thousand dollars in money, and satisfy the claims of Georgia against their tribes, estimated by the parties at two hundred and eighty thousand dollars. That the value of the lands relinquished by the Indians was considered by them as worth four hundred and fifty thousand dollars, thereby making the consideration received by the United States for its contract to pay the citizens of Georgia, equal to the sum of two hundred and fifty thousand dollars. That the United States, having the power to adjudicate the claims of those citizens, had circumscribed them within such narrow bounds that the larger portion of the fund appropriated by the Indians for their payment, had, instead of being applied to that purpose, gone into the Treasury of the United States. That it was inconsistent with her character as an arbiter, and still more with her national character for justice, to deprive her own citizens of a fund which had been appropriated for the payment of losses sustained by them, under circumstances of peculiar hardship, and occasioned, partly, too, by the neglect or want of power in the Government to protect them. He, therefore, confidently trusted that the committee would support the motion of his colleague, and determine that it was expedient to have farther legislation in favor of the claims of the citizens of Georgia.

SATURDAY, January 17.

*Amendment of the Rules.*

The resolution, offered on Thursday, by Mr. WICKLIFFE, coming up,

Mr. RAMSEY addressed the House in support of the resolution. He had been taught (he said) from his infancy, that a Representative of the people ought always to vote *viva voce*. In Pennsylvania, the constitution says expressly that such shall be the case. The practice, if adopted in this body, would occasion none of the delay which some gentlemen seemed so much to apprehend. In the Legislature of Pennsylvania, they elected all their officers *viva*

*voce*, and the whole election was usually gone through with in about half an hour. That body lately elected a State treasurer, and the whole matter did not occupy more than fifteen minutes. All the delay necessary was the time occupied in calling over the names of the members. Mr. R. said it was his fixed opinion that all persons represented either in a county, a State, or the United States, should have the votes which they gave in their representative capacities recorded. A representative is merely the mouthpiece, the mere agent, of those who send him; and it is their right to know how he has transacted their business. It had been said by some gentleman, yesterday, that, if any constituent wanted to know how his Representative had voted in any particular case, he might call upon him and inquire. But how would this be possible in such States as Missouri and Illinois, which have but one representative on this floor? Those States were nearly as large as the State of Pennsylvania, and the Representative might live in one corner of them. Were his constituents to travel two or three hundred miles to ask such a question? I do not want to lay them under any such necessity. I would have the Representative vote in every case *viva voce*, and let his vote be put on record, and let his constituents know what it has been.

Mr. BARTLETT said he would vote very manfully for the resolution if any reason could be shown why the present mode of election was not a good one, and why the mode proposed would be better. From the commencement of the Government the practice of electing by ballot had been uniformly observed; and he had listened with attention to the mover of the resolution to hear what evil attended it; but he had listened in vain. He was opposed to hasty changes in legislation, and never would adopt them without a strong probability of some benefit to follow. In the present case, the mover of the resolution had not been able to state a single evil or inconvenience arising from the existing practice. He had, indeed, placed the matter upon the ostensible ground, that the votes of every member would, by this means, be known to his constituents. Now, for his own part, he had never once heard it stated that any attempt had been made to conceal the course taken by gentlemen in elections in this House. Gentlemen had indeed told the House that the practice of voting *viva voce* prevailed in some of the States. This might be so; but, wherever it did prevail, he believed it to have been originally adopted because the Representatives were not all able to read and write. That reason, he trusted, would not be held as operating in this House. He presumed there was no danger of imposition here from the want of the votes being uttered in an audible voice.

Mr. BARRINGER said: We are elected by the people to do what? To enact laws, to prescribe rules by which we are to be governed.

JANUARY, 1829.]

*Cumberland Road.*

[H. OF R.]

Is that the end for which a Speaker of this House is chosen? The Speaker makes no rules for us; it is we who dictate laws and prescribe rules for him. He is merely an Executive officer, whose duty it is to carry into effect such regulations as we choose to lay down. In every part of his duty he is wholly subject to our will. His office is ministerial; ours is legislative. The House prescribes to him rules so plain that he who runs may read them; and whenever he deviates from any one of those rules, his decisions are subject to our revision, and he is himself amenable to our control. He is placed in that chair; not to control the action of this House, not to interrupt it, far less to oppose it. He is set there to facilitate its action. But we stand in no such relation to our constituents. We are, by our office, makers of the laws by which they are so bound; and, while we are engaged in making those laws, it is fit and proper that they should know, if they have any wish to know, how each man votes on every law. But this principle does not apply to our acts when merely appointing an instrument to further and facilitate the discharge of our legislative duty. That is a matter of ours, and of ours alone. The gentleman from Kentucky tells us, that the Speaker has great and extensive patronage, and that, therefore, the nation have a concern in knowing how every man votes in giving him his appointment. Sir, he has no patronage at all. Whatever he enjoys in that way, he exercises by the courtesy of this House and on no other grounds. It is very true that he appoints the Standing and Select Committees of the House; but by what right? Under a rule of the House. But who made that rule? We have made it and can repeal it at pleasure. What does the language of the rule itself say? That he shall appoint those committees until otherwise ordered by the House. He is the creature of this House, and holds his existence by its breath, and can be annihilated at its pleasure. I say, then, that, as we elect a Speaker merely for the benefit of the House itself, that it may thereby be enabled with more ease and order to discharge its duty, we are not responsible to the people, whether we make A or B our instrument for that purpose. When we vote upon a law, we are responsible, and the people have a right to know who voted for and who voted against it; but whether we put A or B in our chair, is a matter of ours, and not of theirs. The only object in requiring a skillful and experienced individual in that important station, is, that the House may thereby come to right results with greater speed and certainty than would be possible in any other way. When that point is accomplished our duty is performed.

MONDAY, January 19.

*Cumberland Road.*

The House then went into Committee of

the Whole and proceeded to consider the bill for the preservation and repair of the Cumberland road—the amendment offered by Mr. BUCHANAN being under consideration.

Mr. BUCHANAN said that the bill and the amendment now before the committee presented a subject for discussion of the deepest interest to the American people. It is not a question (said Mr. B.) whether we shall keep the road in repair by annual appropriations; nor whether we shall expend other millions in constructing other Cumberland roads; these would be comparatively unimportant; but it is a question, upon the determination of which, in my humble judgment, depends the continued existence of the Federal constitution, in any thing like its native purity. Let it once be established that the Federal Government can enter the dominion of the States; interfere with their domestic concerns; erect toll-gates over all the military, commercial, and post roads, within their territories, and define and punish, by laws of Congress, in the courts of the United States, offences committed upon these roads; and the barriers, which were erected by our ancestors with so much care, between Federal and State power, are entirely prostrated. This single act would, in itself, be a longer stride towards consolidation than the Federal Government have ever made; and it would be a precedent for establishing a construction for the Federal constitution so vague, and so indefinite, that it might be made to mean any thing, or nothing.

It is not my purpose, upon the present occasion, again to agitate the questions which have so often been discussed in this House, as to the powers of Congress in regard to Internal Improvements. For my own part, I cheerfully accord to the Federal Government the power of subscribing stock, in companies incorporated by the States, for the purpose of making roads and canals; and I entertain no doubt whatever, but that we can, under the constitution, appropriate the money of our constituents directly to the construction of Internal Improvements, with the consent of the States through which they may pass. These powers I shall ever be willing to exercise, upon all proper occasions. But I shall never be driven to support any road or any canal, which my judgment disapproves, by a fear of the senseless clamor which is always attempted to be raised against members upon this floor, as enemies to Internal Improvement, who dare to vote against any measure which the Committee on Roads and Canals think proper to bring before this House. It was my intention to discuss the power of Congress to pass the bill, and its policy, separately. Upon reflection, I find these subjects are so intimately blended, they cannot easily be separated. I shall, therefore, consider them together.

Before, however, I enter upon the subject, it will be necessary to present a short historical sketch of the Cumberland road. It owes its origin to a compact between the State of Ohio

and the United States. In 1802, Congress proposed to the convention which formed the constitution of Ohio, that they would grant to that State one section of land in each township, for the use of schools; that they would also grant to it several tracts of land on which there were salt springs; and that five per cent. of the net proceeds of the future sales of public lands within its territory should be applied to the purpose of making public roads, "leading from the navigable waters emptying into the Atlantic to the Ohio, to the said State, and through the same." The act, however, distinctly declares that such roads shall be laid out under the authority of Congress, "with the consent of the several States through which the road shall pass." These terms were offered by Congress to the State of Ohio, provided she would exempt, by an irrevocable ordinance, all the land which should be sold by the United States within her territory, from every species of taxation, for the space of five years after the day of sale. This proposition of Congress was accepted by the State of Ohio; and it thus became a compact, the terms of which could not be changed without the consent of both the contracting parties. By the terms of the compact, this five per cent. of the net proceeds of the sales of the public land was applicable to two objects; the first, the construction of roads leading from the Atlantic to the State of Ohio; and the second, the construction of roads within that State. In 1803, Congress, at the request of Ohio, apportioned this fund between these two objects. Three of the five per cent. was appropriated to the construction of roads within the State; leaving only two per cent. applicable to roads leading from the navigable waters of the Atlantic to it.

In March, 1806, Congress determined to apply this two per cent. fund to the object for which it was destined, and passed "An act to regulate the laying out and making of a road from Cumberland, in the State of Maryland, to the State of Ohio." Under the provisions of this act, before the President could proceed to cut a single tree upon the route of the road, it was made necessary to obtain the consent of the States through which it passed. The Federal Government asked Maryland, Pennsylvania, and Virginia, for permission to make it, and each of them granted this privilege in the same manner that they would have done to a private individual, or to a corporation created by their own laws.

Congress, at that day, asserted no other right than a mere power to appropriate the money of their constituents to the construction of this road, after the consent of these States should be obtained. The idea of a sovereign power in this Government to make the road, and to exercise jurisdiction over it, for the purpose of keeping it in repair, does not, then, appear to have ever entered the imagination of the warmest advocate for federal power. The federalism of that day would have shrunk with

horror from such a spectre. There is a circumstance worthy of remark in the act of the Legislature of Pennsylvania, which was passed in April, 1807, authorizing the President of the United States to open this road. It grants this power upon condition that the road should pass through Uniontown and Washington, if practicable. The grant was accepted upon this condition, and the road was constructed. Its length is one hundred and thirty miles, and its construction and repairs have cost the United States one million seven hundred and sixty-six thousand one hundred and sixty-six dollars and thirty-eight cents; whilst the two per cent. fund which we had bound ourselves to apply to this purpose, amounted, on the 30th of June, 1822, the date of the last official statement within my knowledge, only to the sum of one hundred and eighty-seven thousand seven hundred and eighty-six dollars and thirty-one cents; less than one-ninth of the cost of the road. This road has cost the United States more than thirteen thousand five hundred dollars per mile. This extravagant expenditure shows, conclusively, that it is much more politic for us to enlist individual interest in the cause of Internal Improvement, by subscribing stock, than to become ourselves sole proprietors. Any Government, unless under extraordinary circumstances, will pay one-third more for constructing a road or canal, than would be expended by individuals in accomplishing the same object.

I shall now proceed to the argument. Upon a review of this brief history, what is the conclusion at which we must arrive? That this road was made by the United States, as a mere proprietor, to carry into effect a contract with the State of Ohio, and not as a sovereign. In its construction, the Federal Government proceeded as any corporation or private individual would have done. We asked the States for permission to make the road through the territories over which their sovereign authority extended. After that permission had been obtained, we appropriated the money, and constructed the road. The State of Pennsylvania even annexed a condition to her grant, with which the United States complied. She also conferred upon the agents of the United States the power of taking materials for the construction and repair of this road, without the consent of the owner, making a just compensation therefor. This compensation was to be ascertained under the laws of the State, and not under those of the United States. The mode of proceeding to assess damages in such cases against the United States was precisely the same as it is against corporations, created by her own laws, for the purpose of constructing roads.

What, then, does this precedent establish? Simply, that the United States may appropriate money for the construction of a road through the territories of a State, with its consent; and I do not entertain the least doubt but that we possess this power. What does the present bill

JANUARY, 1829.]

*Cumberland Road.*

[H. OF R.]

propose? To change the character which the United States has hitherto sustained, in relation to this road, from that of a simple proprietor to a sovereign. To declare to the nation, that, although they had to ask the States of Maryland, Pennsylvania, and Virginia, for permission to make the road, now, after it is completed, they will exercise jurisdiction over it, and collect tolls upon it, under the authority of their own laws, for the purpose of keeping it in repair. We will not ask the States to erect toll gates for us. We are determined to exercise that power ourselves. The Federal Government first introduced itself into the States as a friend, by permission; it now wishes to hold possession as a sovereign, by power.

This road was made in the manner that one independent sovereign would construct a road through the territories of another. Had Virginia been a party to the compact with Ohio, instead of the United States, she would have asked the permission of Maryland and Pennsylvania to construct the Cumberland road through their territories, and it would have been granted. But what would have been our astonishment, after this permission, had Virginia attempted to assume jurisdiction over the road in Pennsylvania, to erect toll gates upon it under the authority of her own laws, and to punish offenders against these laws in her own courts. Yet the two cases are nearly parallel.

The right to demand toll, and to stop and punish passengers for refusing to pay it, is emphatically a sovereign right, and has ever been so considered amongst civilized nations. The power to erect toll gates necessarily implies, 1st. The stoppage of the passenger until he shall pay the toll. 2d. His trial and punishment, if he should, either by force or by fraud, evade, or attempt to evade, its payment. 3. A discretionary power as to the amount of toll. 4th. The trial and punishment of persons who may wilfully injure the road, or violate the police established upon it. These powers are necessarily implied. Without the exercise of them, you could not proceed with safety to collect the toll for a single day. Other powers will soon be exercised. If you compel passengers to pay toll, the power of protecting them whilst travelling along your road is almost a necessary incident. The sovereign, who receives the toll, ought naturally to possess the power of protecting him who pays it. To vest the power of demanding toll in one sovereign, and the protection of the traveller's person in another, would be almost an absurdity. The Federal Government would probably, ere long, exercise the power of trying and punishing murders and robberies, and all other offences committed upon the road. To what jurisdiction would the trial and punishment of these offences necessarily belong? To the courts of the United States, and to them alone. In Ohio, in New York, in Virginia, and in Maryland, it has been determined that State courts, even if Congress should confer it, have no jurisdiction

over any penal action or criminal offence, against the laws of the United States.

Even if these decisions were incorrect, still it has never been seriously contended that State courts were bound to take jurisdiction in such cases. It must be admitted by all, that Congress have not the power to compel an execution of their criminal or penal laws by the courts of the States. This is sufficient for my argument. Even if the power existed, in State courts, they never ought, unless upon extraordinary occasions, to try and to punish offences committed against the United States. The peace and the harmony of the people of this country require that the powers of the two Governments should never be blended. The dividing line between their separate jurisdictions should be clearly marked; otherwise dangerous collisions between them must be the inevitable consequence. In two of the States, through which this road passes, it has already been determined that their courts cannot take jurisdiction over offences committed against the laws of Congress. What, then, is the inevitable consequence? All the penal enactments of this bill, or of the future bills which it will become necessary to pass to supply its defects, must be carried into execution by the Federal courts. Any citizen of the United States, charged with the most trifling offence against the police of this road, must be dragged for trial to the Federal court of that State within whose jurisdiction it is alleged to have been committed. If committed in Maryland, the trial must take place in Baltimore; if in Pennsylvania, at Pittsburgh; and if in Virginia, at Clarksburg.

The distance of one hundred or two hundred miles, which he would be compelled to travel to take his trial, and the expenses which he must necessarily incur, would, in themselves, be a severe punishment for a more aggravated offence. Besides, the people of the neighborhood would be harassed in attending as witnesses at such a great distance from their places of abode. These, and many other inconveniences, which I shall not enumerate, would soon compel Congress to authorize the appointment of justices of the peace, or some other inferior tribunals, along the whole extent of the Cumberland road.

Can any man lay his hand upon his heart and say that, in his conscience, he believes the Federal constitution ever intended to bestow such powers on Congress? The great divisions of power, distinctly marked in that instrument, are external and internal. The first are conferred upon the General Government—the last, with but few exceptions, and those distinctly defined, remain in possession of the States. It never—never was intended that the vast and mighty machinery of this Government should be introduced into the domestic, the local, the interior concerns of the States, or that it should spend its power in collecting toll at a turnpike gate. I have not been presenting possible cases to the committee. I have confined myself to

what must be the necessary effects of the passage of the bill now before us. By what authority is such a tremendous power claimed? That it is not expressly given by the constitution, is certain. If it exists at all, it must, therefore, be incidental to some express power; and, in the language of the constitution, "be necessary and proper for carrying that power into execution." From the very nature of incidental power, it cannot transcend the specific power which calls it into existence. The stream cannot flow higher than its fountain. This principle applies, with peculiar force, to the construction of the constitution. For the purpose of carrying into effect any of its specific powers, it would be absurd to contend that you might exercise another power, greater and more dangerous than that expressly given. The means must be subordinate to the end. Were any other construction to prevail, this Government would no longer be one of limited powers.

The present case affords a striking and forcible illustration of this principle. Let it be granted that you have a right, as proprietor, by the permission of the States, to make a road through their territories, can it ever follow, as an incident to this mere power of appropriating the public money, that you may exercise jurisdiction over this very road, as a sovereign? If you could, the incident is as much greater than the principle, as sovereign is superior to individual power. It does follow that you can keep the road in repair, by appropriations, in the same manner that you have made it; but this is the utmost limit of your power. What, sir! Exclusive jurisdiction over the road, for its preservation, and for the punishment of all offenders who travel upon it, and that as an incident to the mere power of expending your money upon its construction! The idea is absurd.

Under the power given to Congress "to establish post offices and post roads," the Federal Government possess the undoubted right of converting any road already constructed, within any State of this Union, into a post road. Let it also be granted, for the sake of the argument, that they possess the power, independently of the will of the States, to construct as many post roads throughout the Union as they think proper, and to keep them in repair; does it follow that they can establish toll gates upon such roads? Certainly not. What is the nature of the power conferred upon Congress? It is a mere right to carry and protect the mail. It is confined to a single purpose—to the transportation of the mail, and the punishment of offences which violate that right. This is the sole object of the power—the sole purpose for which it was called into existence. Over some post roads, the mail is carried once per day; and over others once per week. With what justice can it be contended that this right of passage for a single purpose—this occasional use of the roads within the different States for

post roads—vests in Congress the power of closing up these roads against all the citizens of those States, at all times, until they have paid such a toll as we may think proper to impose. Let me present the naked argument of gentlemen before their own eyes. Congress have the right, under the constitution, "to establish post offices and post roads." As an incident they possess the power of constructing post roads. As another incident to this right of passage for a single purpose they possess the power to assume jurisdiction over all post roads in the different States, and prevent any persons from passing over them, unless upon such terms as they may prescribe. This would, indeed, be construction construed. I would ask the gentleman from Virginia, (Mr. MASON,) to furnish the committee with an answer to this argument. If I were to grant to that gentleman a right of passage, for a particular purpose only, over a road which belonged to me, what would be my surprise and indignation, were he to shut it up, by the erection of toll gates, and prohibit me from passing unless I paid him toll.

Should Congress act upon the precedent which the passage of this bill would establish, it is impossible to foresee the dangers which must follow, to the States and to the people of this country. Upon this branch of the question, permit me to quote the language of Mr. Monroe, in his celebrated Message of May, 1822, denying the constitutional power of Congress to erect toll gates on the Cumberland road: "If, said he, the United States possessed the power contended for under this grant, might they not, in adopting the roads of the individual States for the carriage of the mail, as has been done, assume jurisdiction over them, and preclude a right to interfere with, or alter them? Might they not establish turnpikes, and exercise all the other acts of sovereignty above stated, over such roads, necessary to protect them from injury, and defray the expense of repairing them? Surely, if the right exists, these consequences necessarily followed, as soon as the road was established. The absurdity of such a pretension must be apparent to all who examine it. In this way, a large portion of the territory of every State might be taken from it; for there is scarcely a road in any State which will not be used for the transportation of the mail. A new field for legislation and internal government would thus be opened." Arguments of the same nature would apply with equal, if not with greater force, to those roads which might be used by the United States for the transportation of military stores, or as the medium of commerce between the different States. I shall not now enlarge upon this branch of the subject, believing it, as I do, to be wholly unnecessary.

There is another view of this subject, which I deem to be conclusive. The Constitution of the United States provides that "Congress shall have power to exercise exclusive legislation in

JANUARY, 1829.]

*Cumberland Road.*

[H. OF R.]

all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise the like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." This is the only clause in the constitution which authorizes the Federal Government to acquire jurisdiction over any portion of the territory of the States; and this power is expressly confined to such forts, magazines, arsenals, dockyards, and other needful buildings, as the States may consider necessary for the defence of the country. You will thus, sir, perceive, with what jealousy our ancestors conferred jurisdiction upon this Government—even over such places as were absolutely necessary for the exercise of the power of war. This power—which is the power of self-defence—of self-preservation—the power given to this Government of wielding the whole physical force of the country, for the preservation of its existence and its liberties—does not confer any implied jurisdiction over the smallest portion of territory. An express authority is given to acquire jurisdiction, for military and for naval purposes, and for them alone, with the consent of the States. Unless that consent has been first obtained, the vast power of war confers no incidental jurisdiction, even over the cannon in your national fortifications. How, then, can it be contended, with the least hope of success, that the same constitution, which thus expressly limits our power of acquiring jurisdiction, to particular spots, necessary for the purpose of national defence, should, by implication, as an incident to the power to establish post offices and post roads, authorize us to assume jurisdiction over a road one hundred and thirty miles in length, and over all the other post roads in the country. If this construction be correct, all the limitations upon Federal power contained in the constitution, are idle and vain. There is no power which this Government shall ever wish to usurp, which cannot, by ingenuity, be found lurking in some of the express powers granted by the constitution. In my humble judgment, the argument in favor of the constructive power to pass the sedition law is much more plausible than any which can be urged by the advocates of this bill, in favor of its passage. I beg gentlemen to reflect, before they vote in its favor.

I thank the gentleman from Ohio, (Mr. VANCE,) for having reminded me of the resolution passed by the Legislature of Pennsylvania, at their last session, which authorizes the Federal Government to erect toll gates upon this road, within that commonwealth; to "enforce the collection of tolls, and, generally, to do and perform any and every other act and thing which may be deemed necessary to ensure the

permanent repair and preservation of the said road."

I feel the most unfeigned respect for the Legislature of my native State. Their deliberate opinion, upon any subject, will always have a powerful influence over my judgment. It is fairly entitled to as much consideration as the opinion of this or any other legislative body in the Union. This resolution, however, was adopted, as I have been informed, without much deliberation and without debate. It owes its passage to the anxious desire which that body feel to preserve the Cumberland road from ruin. The constitutional question was not brought into discussion. Had it been fairly submitted to the Republican Legislature, I most solemnly believe they would have been the last in the Union to sanction the assumption, by this Government, of a jurisdiction so ultra-federal in its nature, and so well calculated to destroy the rights of the States.

But this resolution can have no influence upon the present discussion. The people of the State of Pennsylvania never conferred upon their Legislature the power to cede jurisdiction over any portion of their territory to the United States, or to any other sovereign. If the Legislatures of the different States could exercise such a power, the road to consolidation would be direct. If they can cede jurisdiction to this Government over any portion of their territories, they can cede the whole, and thus altogether destroy the Federal system.

Even if the States possess the power to cede, the United States have no power to accept such cessions. Their authority to accept cessions of jurisdiction is confined to places "for the erection of forts, magazines, arsenals, dockyards, and other needful buildings." Mr. Monroe in the Message to which I have already referred, declares his opinion, "that Congress do not possess this power; that the States, individually, cannot grant it; for, although they may assent to the appropriation of money, within their limits, for such purposes, they can grant no power of jurisdiction, or sovereignty, by special compacts with the United States."

I think it is thus rendered abundantly clear, that, if Congress do not possess the power, under the Federal constitution, to pass this bill, the States through which the road passes cannot confer it upon them. I feel convinced that even the gentleman who reported this bill (Mr. MEROER) will not contend that the resolution of the Legislature of Pennsylvania could bestow any jurisdiction upon this Government. I am justified in this inference, because that resolution is, in its nature, conditional, and requires that the amount of tolls collected in Pennsylvania shall be applied, exclusively, to the repair of the road within that State; and the present bill contains no provision to carry this condition into effect. The gentleman cannot, therefore, derive his authority to pass this bill from a grant, the provisions of which he has disregarded.



This question has already been settled, so far as a solemn legislative precedent can settle any question. During the session of 1821-'2, a bill, similar in its provisions to the one now before the committee, passed both Houses of Congress. The vote, on its passage in this House, was eighty-seven in the affirmative, and sixty-eight in the negative. Mr. Monroe, then President of the United States, returned this bill to the House of Representatives, with his objections. So powerful, and so convincing, were his arguments, that, upon its reconsideration, but sixty-eight members voted in the affirmative, whilst seventy-two voted in the negative. Thus, sir, you perceive, that this House have already solemnly declared, in accordance with the deliberate opinion of the late President of the United States, that Congress do not possess the power to erect toll gates upon the Cumberland road. That distinguished individual was the last of the race of Revolutionary Presidents, and, from the soundness of his judgment, and the elevated stations which he has occupied, his opinion is entitled to the utmost respect. He was an actor in many of the political scenes of that day when the constitution was framed, and when it went into operation, under the auspices of Washington—"all which he saw, and part of which he was." He is, therefore, one of the few surviving statesmen, who, from actual knowledge, can inform the present generation what were the opinions of the past. The solemnity and the ability with which he has resisted the exercise of the power of Congress to pass this bill prove, conclusively, the great importance which he attached to the subject.

During that session, which was the first I had the honor of a seat in this House, I voted for the passage of that bill. I had not reflected upon the constitutional question, and I was an advocate of the policy of keeping the road in repair by collecting tolls from those who travelled upon it. After I read the constitutional objections of Mr. Monroe, my opinion was changed, and I have ever since been endeavoring, upon all proper occasions, to atone for my vote, by advocating a cession of the road to the respective States through which it passes, that they may erect toll gates upon it and keep it in repair. There was a time in the history of this country—I refer to the days of the first President of the United States—when this Government was feeble, and when, in addition to its own powers, the weight of his personal character was necessary fairly to put it in motion. Jealousy of Federal power was then the order of the day. The gulf of consolidation then fawned before the imagination of many of our wisest and best patriots, ready to swallow up the rights of the States and the liberties of the people. In those days, this vast machine had scarcely got into regular motion. Its power and its patronage were then in their infancy, and there was, perhaps, more danger that the jealousy of the States should destroy

the efficiency of the Federal Government, than that it should crush their power. Times have changed. The days of its feebleness and of childhood have passed away. It is now a giant—a Briareus—stretching forth its hundred arms, dispensing its patronage, and increasing its power over every portion of the Union. What patronage and what power have the States to oppose to this increasing influence? Glance your eye over the extent of the Union; compare State offices with those of the United States; and whether avarice or ambition be consulted, those which belong to the General Government are greatly to be preferred to the offices which the States can bestow. Jealousy of Federal power—not of a narrow and mean character, but a watchful and uncompromising jealousy—is now the dictate of the soundest patriotism. The General Government possesses the exclusive right to impose duties upon imports—by far the most productive and the most popular source of revenue. United and powerful efforts are now making to destroy the revenue which the States derive from sales at auction. This Government is now asked to interpose its power between the buyer and seller, and put down public sales of merchandise within the different States—a subject, heretofore, believed to be within the exclusive jurisdiction of the State sovereignties. Whilst the Federal Government has been advancing with rapid strides, the people of the States have seldom been awakened to a sense of their danger. In the late political struggle, they were aroused, and they nobly maintained their own rights. This, I trust, will always be the case hereafter. Thank Heaven! whilst the people continue true to themselves, the constitution contains within itself those principles which must ever preserve it. From its very nature—from a difference of opinion as to the constructive powers which may be necessary and proper to carry those which are enumerated into effect—it must ever call into existence two parties, the one jealous of Federal, the other of State power; the one anxious to extend Federal influence, the other wedded to State rights; the one desirous to limit, the other to extend, the power and the patronage of the General Government. In the intermediate space there will be much debatable ground; but a general outline will still remain, sufficiently distinct to mark the division between the political parties which have divided, and which will probably continue to divide, the people of this country. Jealousy of Federal power had long been lumbering. The voice of Virginia, sounding the alarm, has at length awakened several of her sister States; and, although they believe her to be too strict in her construction of the constitution and her doctrines concerning State rights, yet, they are now willing to do justice to the steadiness and patriotism of her political character. She has kept alive a wholesome jealousy of Federal power.

If, then, there be a party in this country

JANUARY, 1839.]

*Proposed Territory of Huron.*

[H. OF R.]

friendly to the rights of the States and of the people, I call upon them to oppose the passage of this bill. Should it become a law, it will establish a precedent, under the authority of which the sovereign power of this Government can be brought home into the domestic concerns of every State in the Union. We may then take under our own jurisdiction every road over which the mail is carried, every road over which our soldiers and warlike munitions may pass, and every road used for the purpose of carrying on commerce between the several States. Once establish this strained construction of the Federal constitution, and I would ask gentlemen to point out the limit where this splendid Government shall be compelled to stay its chariot wheels. Might it not then drive on to consolidation, under the sanction of the constitution?

Is there any necessity for venturing upon this dangerous and doubtful measure? I appeal to those gentlemen who suppose the power to be clear, what motive they can have for forcing this measure upon us, who are of a different opinion? Can it make any difference to them, whether these toll gates shall be erected under a law of the United States, or under State authority? Cannot the Legislature of Pennsylvania enact this bill into a law as well as the Congress of the United States? Nobody will doubt their right. I trust no gentleman upon this floor will question the fidelity of that State, in complying with all her engagements. She has ever been true to every trust. If she should accept of the cession, as I have no doubt she would, I will pledge myself that you shall never again hear of the road, unless it be that she has kept it in good repair, and that, under her care, it has answered every purpose for which it was intended.

I know that some popular feeling has been excited against myself in that portion of Pennsylvania through which this road passes. I have been represented as one of its greatest enemies. I now take occasion thus publicly to deny this allegation. It is true that I cannot vote in favor of the passage of this bill, and thus, in my judgment, violate the oath which I have taken to support the Constitution of the United States. No man can expect this from me. But it is equally true, that I have heretofore supported appropriations for the repair of this road; and, should my amendment prevail, I shall vote in favor of the appropriation of one hundred thousand dollars, for that purpose, which is contained in this bill.

Mr. STORRS spoke in reply, contending that the constitutional question was not involved, inasmuch as the construction of the road rested in a contract prior to the constitution, between Virginia and the old Confederation, in which Virginia gave to the Confederation power to regulate the road, when constructed, and by which all the then existing States in the Confederation were bound.

TUESDAY, January 20.

*Proposed Territory of Huron.*

The bill establishing a new Territory west of Michigan, to be denominated the Territory of Huron, having been set down for this day, was taken up and considered.

Mr. STRONG, Chairman of the Committee on the Territories, briefly recapitulated the ground on which the bill had been proposed, and after stating the population of the country which it proposed to erect into a territory to amount to between ten and fifteen thousand persons, insisted that the territory might be established with little or no expense to the Government, the great mass of the population being engaged in mining on lands leased to them by the United States, on which they paid an annual rent of about one million of pounds of lead, worth to the Government, say forty thousand dollars; that citizens thus situated were entitled to the protection of the Government, and the enjoyment of the same civil rights and privileges as other citizens of the Union. Though they were not owners of the soil, they were not intruders, but they were there by the express permission of Government; that, although the jurisdiction of Michigan Territory extended over a part of the country embraced by the bill, that jurisdiction was nominal, more than any thing else; the Council sat at Detroit, the distance from which to Green Bay was six hundred miles, to Prairie du Chien eight hundred, and to Galena more than one thousand. The Council usually sat for sixty days in the summer, and before the laws passed at such session could be published and forwarded to Green Bay, much less to Galena, the waters were usually frozen, and the practical result was, that the people for whom the laws were made did not hear of their existence till nearly twelve months after they were passed; and it had actually happened that laws, at the time they began to be enforced, had been repealed by the authority who passed them. Hence the whole jurisprudence of that region was necessarily irregular, and sometimes illegal. That this was a state of things to which no free citizens of the United States ought ever to be subjected. The frontier to which the bill had respect, was, in every view, of a very interesting character; it bordered on the territories of an alien Government, and was filled with Indians, some of whom were avowedly hostile to the United States. It was obviously proper that our citizens in that angle of the Union should be fully protected by the Government, nor could the whole valley of the lower Mississippi be indifferent to such protection. It would prove a great relief, in the event of sudden hostilities, operating to relieve the Middle States from the necessity of sending their troops northward, when they might possibly be still more wanted at the south. There were various points in the argument which Mr. S. declined to touch unless any opposition should render it his duty. He concluded with

expressing his conviction that the proposed territory ought to be erected, and that without delay, and his hope that the bill would now be allowed its third reading.

Mr. KREMER was opposed to the bill. It proposed an expense of twenty-five or thirty thousand dollars a year for the accommodation of a few Indian traders. He did not believe that they were near so numerous as had been stated, for the whole of Michigan Territory contained last year but eighteen thousand inhabitants. As to the objection that those people could not enjoy the laws of Michigan, who believed that they cared any thing about the law? Few, if any of them, held any property, and they might very well be left to make such laws for themselves as they could agree upon. Here Mr. K. referred to the case of certain adventurers, before the Revolution, who settled beyond the limits of the United States, and were known by the name of the "Fair play dealers," who made laws for themselves, and faithfully obeyed them. The dividing of the Territory of Michigan, at this time, might retard its admission, as a State, into the Union, for twenty years.

Mr. WING, of Michigan, vindicated the character of those whom Mr. K. had so roughly handled. A more respectable population was nowhere to be found. There are among them many men who, in enterprise, information, capital, and extent of business, were not surpassed, save in our largest commercial cities. His own constituents had at first been opposed to the plan, but were now satisfied of its propriety, and strongly recommended the measure.

Mr. POLK opposed the bill as premature. He stated the number of persons in the old French settlements to be inconsiderable, and as to those of Galena, it was as yet uncertain whether they would fall within the territory, or the State of Illinois. The great body of the inhabitants were transient persons, and after all the machinery of a territorial government should be established, the difficulty of learning the laws would remain as great as ever, from the extent of the territory, the sparseness of the population, and their insular situation, in separate groups, &c.

Mr. BATES, of Missouri, replied to the objection as to the want of ownership, referring, on that subject, to the established policy of the Government, granting pre-emption rights, and encouraging and favoring settlers on the public domain; but the settlers at Galena were not intruders; they leased their land from Government, and paid their rent. On the subject of the amount of population in that territory, he stated the fact, that a regular weekly steamboat plied between St. Louis and Galena. He vindicated the respectability of the settlers; and as to such of them as were transient persons, nothing would be more likely to render them permanent settlers than extending to the territory the benefits proposed in the bill. An agricultural population would be attracted, and

the culture would be improved. He had had ample opportunity to form a judgment on this subject, having been an inhabitant of a frontier country during fifteen years of his life; and he would venture to predict, that, if this bill passed, the new territory would exhibit as large an influx of settlers as was now to be seen in the Territory of Arkansas.

The bill was ordered to its third reading—yeas 113, nays 70.

WEDNESDAY, JANUARY 21.

*Pontchartrain Canal and Louisiana College.*

The House resumed the consideration of the following resolutions, moved by Mr. GURLEY yesterday:

"Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency and justice of granting to the State of Louisiana five hundred thousand acres of the public lands in said State, for the purpose of opening a canal from the river Mississippi to Lake Pontchartrain, in conformity with the survey heretofore made by the United States engineers, and for making such other works of internal improvements in the said State as the legislature thereof may direct.

"Resolved, That the same committee be instructed to inquire into the expediency of granting a township of land to the trustees of Louisiana College, at Jackson, in said State, for the benefit thereof."

Mr. GURLEY, after expressing it as a conviction of his duty to himself, to state some of the reasons which had induced him to offer the resolutions, proceeded to observe that the Legislature of Louisiana had, some years ago, forwarded a memorial to Congress, asking its aid towards opening the canal referred to in the first of the resolutions which he had now offered, and it had been referred to the Committee of Roads and Canals, who made a favorable report on the subject, but no efficient legislation had as yet followed. He had, therefore, felt himself bound once more to present the subject to the attention of Congress. The subject contemplated in the first resolution claimed its consideration not only as having received the sanction of one of the sovereign States of the Union, but as presenting one of the most important works of internal improvement which had ever asked the aid of Government. In so saying, he was not speaking the language of imagination, or individual opinion. The route of the proposed canal had undergone an examination, in 1826, by four United States engineers, under an order from the Secretary of War. Their report presented in detail the arguments in favor of the plan, considered not merely in a commercial point of view, but as furnishing an important mean of military defence. The work was considered, by the Department, as essential to the safety of that section of the Union, inasmuch as, without it, the forts which had already been erected, might,

JANUARY, 1829.]

*Pontchartrain Canal and Louisiana College.*

[H. or R.]

by a successful movement of the enemy, be rendered of little avail. The expense involved would be nine hundred thousand dollars, for which sum a connection would be formed between the river Mississippi and Lake Pontchartrain. Nor could any work be named which would be of such general interest, both to the western and the eastern States of the Union. When completed, it would open new markets to the whole of the western country, and, therefore, he felt himself warranted to call on gentlemen from the west of the Alleghanies to give their support to the resolution. The vast produce of the whole valley of the Mississippi was now, of necessity, carried to New Orleans, where the owners were compelled to dispose of it at such prices as the merchants there might choose to give; and, if the city happened to be sickly, this was done in great haste, at a great sacrifice, and even with a risk of life itself; but if this canal should be opened, the western agriculturist would enjoy a choice of markets; a direct communication would be opened from the interior of Ohio, down the Mississippi, to Mobile and Pensacola. Of the importance of such an advantage he need say nothing; nor would the effect of such a canal be less important to the eastern States; because their navigation, instead of being obliged to take the circuitous route, by the mouth of the Mississippi, would have an open passage from Pensacola and Mobile to New Orleans, between which points the voyage, now usually pursued, was as tedious and dangerous as a voyage from Washington to New Orleans. Such a canal would form an important link in the chain of inland communication from the East to the West, the most important, indeed, of any in the whole series. It would open a communication between the river and the lake, for sloops of war, which would thus be enabled to pass with ease from the one to the other, as the exigence of the service might demand. Without this advantage, the forts which had been erected at the Rigolets and the Chef Menteur, as well as those on the Mississippi, would be of comparatively small value. The only avenue by which an enemy could successfully approach New Orleans would thus be effectually defended, and the disposable force of the country be transported at pleasure, from point to point, as the threatening danger might render proper and necessary. At present, the mouth of the river could readily be blockaded; and, as soon as this took place, the only outlet for the valley of the Mississippi was completely shut up, and no American ship could leave the river.

In support of the second resolution, Mr. G. went into a history of the College of Louisiana, and explained the reason why it did not participate with the other seminaries of the State in the grants of land made by Congress, in the years 1807 and 1811, for their benefit. This college lay in what was then West Florida, and, being out of the limits of Louisiana, was, of

course, not included in the grants. Since then the limits of the State had been extended—the whole of Florida, west of Pearl River, having been added to her territory. The object of the resolution was to grant to this college the same quantity of land which Congress had given to the other two colleges in the State. Mr. G. observed that the proposition for the present grant of land was by no means of a novel character. The House had, last session, made a grant to the State of Ohio, to aid her in completing her canals, of seven hundred thousand acres; and to Alabama, four hundred thousand; and a bill was now on the calendar for extending the latter grant to five hundred thousand. He had cheerfully voted for both the former bills, and when the other came up it should have his support. Besides these donations, Congress had granted land to Indiana, which is now worth a million of dollars; and Illinois, too, had received more than he now asked for Louisiana. He hoped there was to be no proscription in this case. There could not be a more useful application of our public lands than to further the progress of works of internal improvement; but, dear as was that general subject to him, if gentlemen were determined that Louisiana should be an object of proscription, he would inflexibly withhold his assent from any farther aid to be granted by this Government. Hitherto she had never received an acre of land from the Government, nor did she now present herself in the attitude of an humble suppliant. The principles and policy which the Government had adopted, she considered, and had a right to consider, as applicable to herself as to any of her sister States; nor could he imagine on what ground gentlemen who had voted the donations he had referred to, could refuse a similar request when coming from his own State, especially when the work in behalf of which it was made was national in its character, and of as great intrinsic importance as any in the Union, the Chesapeake and Ohio Canal not excepted. [Mr. G. here sent to the Clerk's table the report of the United States engineers on the subject of this canal, from which various extracts were read to the House.]

Mr. HUNT briefly opposed the resolution. The canal itself might be very proper as a national object, but he disapproved of committing its construction to the Legislature of a State, under a large and valuable grant of land. Such grants were liable to be perverted to objects merely local, or even private and temporary in their character. Such an application of the public lands he considered improper; but would cheerfully vote for a distribution of their proceeds among the several States.

Mr. BRENT, of Louisiana, was persuaded that the House had not a proper view of the resolution. It did not direct the committee to report a bill, nor did it commit the House in any form. Such being the case, he appealed to the generosity and justice of gentlemen, and asked

if it was either just or generous to refuse even a consideration of the expediency of the measure proposed. The House was not yet in possession of all the facts of the case; but if it had resolved to withhold from Louisiana the same justice which had been awarded to Ohio, to Indiana, to Illinois, and other States, he at least hoped that the reasons would be stated. He did not agree with his colleague as to the specific object to which the grant was to be applied, but he hoped the resolution would at least be suffered to go to a committee.

#### *Cumberland Road.*

The House, on motion of Mr. MERCEUR, went into Committee of the Whole, and resumed the consideration of the bill for the preservation and repair of the Cumberland road.

Mr. STRONG said, the bill proposes to erect toll-gates upon the Cumberland road; and, in my judgment, the whole comes to be a mere question of property, and of the right in Congress to protect, by its laws, that property, whatever may be its kind. Sir, I am always sorry to hear, on this floor or elsewhere, those arguments too often used, which go to alarm the people for the safety of State rights, and which rarely fail to induce a belief that there is danger, where there is none. I am not against that watchful jealousy and cautious foresight so needful for the preservation of these rights; but I regret and deprecate that train of argument which, whether so intended or not, never fails to act more upon the passions than upon the judgment of men.

The amendment offered by the gentleman from Pennsylvania, (Mr. BUCHANAN,) is not free from objections. Could I be in favor of ceding this road to the respective States through which it passes, I should be against annexing any conditions to the cession. It seems to me that the amendment involves a serious difficulty. If the United States have not only that sort of property in the road of which it is susceptible, (and which the amendment admits, though the gentleman denies it in his argument,) but also the right to put up gates on it, then, indeed, Congress may prescribe conditions. But, if the United States have no right to put up gates, then you not only undertake to grant what the United States do not possess, but you impose a condition, which limits the exercise of the sovereign power of a State. The right to erect these gates is clearly in the one sovereign or the other. It is either in the United States or in Pennsylvania. For example: If not in the United States, (and the gentleman contends that it is not,) then it is in the State of Pennsylvania. The condition, therefore, which is annexed to the grant, will obviously detract from and impair the sovereignty of the State.

The gentleman (Mr. B.) also insisted that the bill would impose great hardships upon the offender, (for it will touch no honest citizen,) by dragging him one or two hundred miles to a Federal court, for the trial of his offence; and

would, moreover, give to the Federal court exclusive jurisdiction over all crimes committed upon the road. Why, sir, the inferior courts of the United States can have no jurisdiction over any matter or offence, but what Congress gives, by law. If you impose a fine for injuring the gate, or for refusing to pay toll, you can touch none but the offender, nor prosecute for any other cause. Pennsylvania has concurrent jurisdiction and concurrent legislation over this road; and the trial for crimes perpetrated upon it would be in her courts, and not in the courts of the United States. The objection, on the ground of distance from the Federal courts, is an objection equally applicable to the prosecution of any matter, civil or criminal, in the courts of the United States. It goes to the whole system of the Federal Judiciary.

The Cumberland road is a mail road, and the post-office laws, among other things, impose fines for obstructing the transportation of the mail. It appears to me that the only object of these fines is to prevent injury to the thing itself; that is, to protect the mail, as matter of property—and not to punish the offender for resisting the execution of the law. This latter offence would be a crime of a high grade, and perhaps could be punished only in the Federal courts. And what is worthy of notice in this law, is, that, by the 37th section of it, "all causes of action arising under" it are to be "sued" for, and "all offenders against it prosecuted, before the justices of the peace, magistrates, or other judicial courts of the several States." If the State courts have jurisdiction in these matters, then the tolls upon this road may be collected in the same way, whenever that mode shall be thought advisable. But, if the United States can impose a fine of a hundred dollars upon an offender, for putting a log, for instance, across the road, by which the mail is obstructed for five minutes, can they not also impose a fine for obstructing the passing of a cannon, or the wilful destruction of a gun-carriage, or of a turnpike-gate, or for passing the gate and refusing to pay the toll? And where is the hardship or injustice, whether the same thing is done by the one Government or the other?

The honorable gentleman (Mr. B.) moreover urges, that this power (which is the power of a sovereign to protect his own property) will become dangerous to the States; because, the exercise of the power being discretionary, if you can put up toll-gates on the Cumberland road, you can on every other mail road in the United States. Sir, I think not. The distinction between the two cases is this: the United States own the Cumberland road as a sovereign, and have a right to dispose of it as such. They have an interest, a property, in it; whereas, in the common mail roads they have neither. But is the danger of abusing the power in this case greater than it is in others? The exercise of the great war power is entirely discretionary, and necessarily so: for, al

JANUARY, 1839.]

*Cumberland Road.*

[H. OF R.]

though the Federal constitution is made up of enumerated powers, yet each power is, in itself, unlimited. Hence it is, that Congress can authorize the raising of an army of a million of men, or the building of a thousand ships of war, or the levying of a direct tax of five hundred millions of dollars, and yet not reach the limit of constitutional power. So in these as in other cases, the proper execution of the trust must, of necessity, be left to the sound discretion of the agent.

I have said that the property in the Cumberland road belonged to the United States—by property, I mean that sort, whatever it may be, which would have been in the State of Pennsylvania had she constructed the road. By the terms of the agreement (as the committee will remember) between the people of Ohio and the United States, the United States became bound to make a road leading from tide water to the State of Ohio. The performance of this, however, depended upon the assent of Pennsylvania, Virginia, and Maryland. The Legislature of each of these States gave the assent required, and the Cumberland road was made. The United States, under these circumstances, having constructed this road, I think it belongs to them; that it is their property; unless it be true, as some contend, that they cannot take the title to land, lying within any of the States, nor any interest growing out of it, other than particular parcels, ceded for the purposes specified in the constitution, and over which they have exclusive legislation.

In point of fact, the United States now hold real estate within the limits of the old States, and over which they have not exclusive legislation. The right to take and hold these parcels of land must either be incident to sovereignty, or be found in the Federal constitution. It can exist nowhere else. If a State can give an acre of land, as she clearly can, to an alien subject or State, why not to the United States? But if there be no power in the constitution authorizing the United States to acquire real property, how did they succeed to the vast domain which belonged to the old Confederation? or how take the lands ceded by Georgia in 1802, and over which the States of Mississippi and Alabama have since been organized and admitted into the Union? or how hold such as fall into their hands for taxes or debts? The clause in the constitution which says that "Congress shall have power to dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States," if it does not give in terms, certainly takes it for granted that the United States have the right to hold real estate as well as other property. As a co-sovereign, therefore, it seems to me that the United States have the same kind and degree of property in this road that either of the States could have had.

The United States having the property, be it what it may, in the Cumberland road, have

they the right of erecting toll-gates on it for its preservation? I have always supposed that the Federal and State Governments had equally the power of making laws for the protection of their own separate property; that each individual State has, none will deny. And if any doubt exists in regard to the power of the United States in this respect, it seems to me the clause of the constitution which I have before cited will remove it. That clause gives to Congress the power of making all needful "rules and regulations," not only respecting the "territory," but "other property, belonging to the United States." This obviously cannot relate to the property mentioned in the preceding clause of the constitution, which gives Congress power "to exercise exclusive legislation, in all cases whatsoever, over" what is now the District of Columbia, and "over all places purchased, by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings," because, as this clause confers all power over these places, no other or greater power is needed or can be given. To what, then, does the phrase "other property" refer, and with respect to which Congress has power to make "all needful rules and regulations?" If, therefore, Congress can make laws for the protection and preservation of the property which the United States have in a ship of war, while lying within the limits of a State, or in the public mail, and the like, why not also for the property they have in the Cumberland road?

I will now proceed to examine the sort of jurisdiction which the United States have over this road. As this Government is peculiar in its structure, so it cannot be rightly judged of by that of any other. Its powers, carried out, those which belonged to the respective States are, like those remaining to the States, sovereign and concurrent, or exclusive, with regard to the particular subject upon which they act. The judiciary power of the Federal Government extends over all the Union. The civil and criminal process of the courts of the United States can be exercised in and throughout every part of each and of all the States. So the like process of each State may be executed anywhere within its limits, except in places, the exclusive legislation over which may have been ceded to the United States. These two jurisdictions must, therefore, be strictly concurrent: for, otherwise, the laws of but one of the sovereign parties could be executed. It seems to me, moreover, that, owing to the peculiarity of our Federal system, the legislative powers of Congress, and of the respective State Legislatures, are also concurrent. If they are not, how can Congress and a State Legislature, at the same time, tax the same subject or thing, or bind the same citizen to support both Governments? The fact is, whatever the theory may be, that person and property are, at all times, subject to the legislative action of the

National and State Legislatures. But, nevertheless, Congress can neither acquire nor exercise exclusive legislation, except over a few places, purchased for specified purposes, such as forts, arsenals, &c.; and the sole object of that clause in the constitution, relating to these places for forts, &c., and to which I have before referred, clearly was to enable a State to give, and Congress to exercise, exclusive legislation in the enumerated cases, and not to restrain the power of a State in the disposition of her soil for any other purpose. I am aware that, by the cession of Georgia, the United States took the title to the territory ceded, and acquired exclusive legislation over it. But this exclusive legislation was the result, not of any grant, but of contracting the limits of Georgia, which she had a right to do; because, had her limits remained unaltered, although she might have granted the territory, yet she could not have granted exclusive legislation over it to the United States, as the object of the grant would not have been for any of the special purposes named in the constitution.

The United States now have the title to many small parcels of land within the States, and over which they have no exclusive legislation. Indeed, over many of the places purchased for forts, arsenals, and the like purposes, the States in which they are have retained their concurrent jurisdiction. Whence, then, the right to hold them, if legislation over them must be exclusive, and can, in no case, be concurrent? So, if a State should convey its whole domain to the United States, would it affect the constitutional powers of the two Governments? Suppose the United States construct a public road through the public lands in Ohio, for example, as they have a right to do, and erect gates on it, and, at the same time, erect gates on the Cumberland road—are not the powers of Congress over the two roads precisely the same? If different, wherein do they differ? Congress cannot exercise exclusive legislation over one foot of this road in Ohio, any more than over that part of it in Pennsylvania, although the one in Ohio is, in truth, a part of the public domain; and the reason is, that neither of them is for any of the purposes over which this high power is permitted to be given. But both Ohio and Pennsylvania have concurrent jurisdiction and legislation over the respective roads, in common with the United States. And, in my judgment, Congress has the right to make laws to protect the title, and to preserve the property in both roads from destruction. Putting up gates are the usual and ordinary means of preserving this sort of property. It imposes no hardship upon any one. It affects none but the passenger, and he pays only for the benefit he receives at the time.

Mr. S. Wood, after giving a brief history of the cession of Virginia, of 1784, and of the ordinance of 1787, stated that the United States, in the act of 1802 for the admission of Ohio

into the Union, stipulated that five per cent. of the proceeds of the public lands in the said State, sold by Congress, should be applied to the laying out and making of public roads leading from the navigable waters emptying into the Atlantic, to the Ohio, to be laid out under the authority of Congress, with the consent of the several States through which the road should pass, in consideration of an exemption of the lands, sold by the United States, from taxation by the State for a given period. That, by an act of the subsequent year, passed at the request of Ohio, three of the five per cent. was agreed to be paid to Ohio, for the purpose of making roads within the said State, and two per cent. only was reserved to be expended in the manner stipulated by the former act. The United States, in conformity with the terms of the compact, obtained the consent of the States of Maryland, Pennsylvania, and Virginia, to their making a road from Cumberland to the river Ohio. In 1806 the United States made an appropriation to commence the making of the said road, and have gone on making appropriations until the road was completed.

The whole amount of the two per cent. fund, on the 31st December, 1826, arising from the sales of the public lands in Ohio, Indiana, Illinois, and Missouri, amounted only to two hundred and ninety-two thousand four hundred and seventy-seven dollars and three cents, and the moneys expended by the Government on the Cumberland road, from 1806, to December, 1827, amounted to one million eight hundred and thirty-eight thousand and seventy-four dollars and twenty cents; more than six times as much as was required by a literal performance of the stipulation with the State of Ohio. Thus, said Mr. W., the United States have anticipated the two per cent. fund many years in advance, and have honorably fulfilled the agreement with the Western States. They have laid out and made the road agreeably to the stipulation, and therefore are under no farther obligations in relation to that road. It is, however, very desirable that so important a road, and upon which so much money has been expended, should be placed in a situation to support itself, and be kept in constant repair. The best mode to ensure the preservation of the road is the establishment of toll-gates, with the exaction of a very moderate toll, and an appropriation of the revenue, after deducting the expenses of collection, to the continual improvement of the road. By this plan the road will, at a very small expense to those who shall enjoy the benefit of it, be kept in constant repair, and will be made as perfect as the nature of the ground and the materials will admit. No objection has been made to this mode of keeping the road in repair; but two propositions have been made relative to the means by which it shall be carried into effect. The bill proposes that the General Government shall repair the road, erect the gates, fix and collect the toll, and expend the surplus revenue in the

JANUARY, 1839.]

*Cumberland Road.*

[H. OF R.]

improvement of the road. The amendment proposes to transfer whatever claims the United States have to the road, to the States through which it passes, in full faith that they will take the proper steps for the preservation of the road. I am decidedly in favor of the last of these propositions. It is immaterial, to those who use the road, by which Government the toll is collected, and the road is kept in repair; but it is all-important to the preservation of our political institutions that this power should be exercised by that Government to which, in the partition of their sovereign power, the people have allotted it.

The power to regulate highways is certainly not among the enumerated powers of the General Government; nor does it seem to be a necessary incident to any one of those powers. The powers of the General Government were intended for those purposes for which the States were not competent; and it is hardly possible to select an object of authority more of a local nature, and more completely subject to municipal regulation, than highways. It is also doubtful whether it is competent for the General Government to establish such inferior tribunals, and to appoint such ministerial officers, as would be necessary to enforce the collection of the toll. The evasion of the toll, and injuries to the road, can only be prevented by courts and officers in the neighborhood of the road. This would be an extension of the judiciary system of the United States to purposes which do not seem to have been within the contemplation of the constitution. This exercise of authority by the General Government would intrench upon the judicial authority of the States; would efface the lines of distinction between the jurisdiction of the General and State Governments; and would lead to an abridgment of the constitutional powers of the States. If the operation of the act should depend on the judicial authority of the United States as now organized, the expense of prosecutions would effectually prevent its execution by the assurance of indemnity to offenders. It is not a subject-matter for concurrent jurisdiction, as has been intimated; the imposition of toll exhausts the subject, and must necessarily be exclusive.

It has been said that the General Government may enforce the collection of toll, and recover the penalties for the violation of the law, by the courts and ministerial officers of the States. Admitting, for the sake of argument, that the State officers might, if they chose, exercise this authority, it is evident that they would not be culpable for the omission, and it would be unsafe and improvident to rely for the execution of your laws upon the voluntary exercise of authority by judicial officers. It has been farther alleged, that Pennsylvania has expressly authorized the collection of toll on this road by the General Government. This is an admission that the General Government has no authority in this case. If the General Gov-

ernment possessed the power, the grant was unnecessary; and if not, it is not competent for Pennsylvania to supply the defect. No one will contend that it is in the power of a single State to enlarge or diminish the powers of the General Government, or that this can be done in any other way than by an amendment, in the mode provided by the constitution. It has also been contended that the Cumberland road belongs to the General Government, and that jurisdiction over it results from the property.

Mr. P. P. BARBOUR said: This subject of internal improvement, in its different phases, has engaged the attention of Congress for a series of years. On some former occasions, and on one of them particularly, perhaps eleven years ago, I took a part in the discussion, and, to the utmost of my ability, I then endeavored, in an elaborate argument, to prove that it was utterly without the sphere of the constitutional power of Congress. It is not my purpose now to retrace my steps in that discussion. I may be allowed, however, merely to suggest some of the prominent positions which I then occupied. I would not do even this, if it were not to express my dissent from some of the views of the gentleman from Pennsylvania, with whom I concur in the general result at which he has arrived. I denied the power of Congress to appropriate money for the construction of roads, upon these plain principles: that if, as the gentleman from Pennsylvania has admitted, we had no right to construct, we could not have the power to appropriate money for their construction; that the power of appropriation was a mean for the attainment of certain ends, which were specified; that, whenever we had not power to execute the end, we could not use the means which conduced to it: for that would be to say, that what we had not a power to do, we yet had a power to cause to be done. Thus, if we had no power to raise and support armies, or to provide and maintain navies, we could not rightfully appropriate money for either of those purposes.

As to the reasoning which attempted to derive the power to construct roads from that to regulate commerce, from the military power, and even from that to establish post-offices and post roads, I resisted it upon the ground that it led to an inadmissible latitude of construction, and an indefinite train of implication, which would run out to such remote consequences, as to obliterate every line of partition between the Federal and State Governments. Thus, for example, take the power of establishing post roads, which bears upon its face the strongest plausibility; this, I contended, meant only to designate the mail routes, as is shown not only by the plain meaning of the terms, but by the practice of the Government from its commencement: for all the laws, professing by their titles to establish post roads, did nothing more than declare what roads should be mail routes; and this argument ought to have much weight with those gentlemen who repose so



much upon the strength of legislative precedent. Now, sir, let us for a moment examine the long train of implications which have been derived from this single clause. The power to establish, it is said, implies the right to create; the right to create, implies that to preserve; the right to preserve, implies that to turnpike; that to turnpike implies that to erect gates; that to erect gates, implies that to collect toll; that to collect toll, implies that to punish for non-payment. I will appeal to the committee to say, if this process of reasoning can be sustained, whether the advocates of the sedition law were not equally sustained in their argument, when they reasoned thus: we have power to suppress insurrections; the publication of seditious papers, and uttering seditious words, lead to insurrections; the suppression of these will tend to prevent insurrections; prevention is one of the modes of suppression; we, therefore, logically prove our right thus to suppress insurrections, and consequently our right to pass the sedition law. This kind of argument, in either case, may, I think, be fairly represented by comparing it to a cone inverted; as the one must fall, by the laws of matter, so must the other, by a just construction of the constitution; the line of direction falls without the base.

But I promised not to go into the argument of these questions, and I will therefore forbear to notice them farther. Before, however, I come to the views which I propose to present, permit me, for a moment, to trace the history of our progress on this subject. At the last session of the Fourteenth Congress, a bill passed both Houses, setting apart a particular fund for the construction of roads and canals: this bill was rejected by the then President, (Mr. MADISON,) on the last day of his official life, and upon the express ground that it was unconstitutional. At the first session, I think, of the Fifteenth Congress, a resolution was reported to the House, affirming the power of Congress to appropriate moneys for the construction of roads and canals, and others affirming our power to construct post roads and military and commercial roads and canals. The House sustained the one, affirming the power of appropriation; but rejected all those which affirmed the power of construction. At an after time, a bill passed Congress authorizing the erection of toll-gates on this Cumberland road, which was rejected by the then President, (Mr. MONROE,) upon the ground that it was unconstitutional. Thus we have the opinion of one House of Representatives, and two Presidents, against the power now claimed: for it is obvious that the denial of the power to construct involved the denial of that to erect gates; and yet now the power is gravely contended for. Precedents, it seems, are to have great weight, when they support power; but when they deny it, they are to be utterly disregarded.

Without farther remark, I come directly to

the question before us. We are told by the advocates of this bill that it may be supported upon two grounds: First, that the constitution, *per se*, gives us the power of erecting toll-gates. And, secondly, that if it did not, we are authorized to do it by compact. Let us examine these grounds separately, in the order in which they have been stated. My promise to the committee will preclude me from discussing this subject upon the old ground of constitutional objection, to some of which I have already merely alluded; but I beg leave to offer some new views, in this aspect of the question, which seem to me, of themselves, to be decisive of it. The bill proposes to erect turnpike gates, and to collect toll from those who use the road. Toll thus collected would be a tax: not only is it embraced by the just definition of the word tax, but the best writers on political economy call it a tax: nor can there be a possible doubt upon the subject; for every requisition of money by the Government from the people is a tax, and this bill makes such a requisition. The constitution gives to Congress power to lay and collect taxes, duties, imposts, and excises to pay the debts and provide for the common defence and general welfare; but it imposes these two limitations: First, that all duties, imposts, and excises, shall be uniform throughout the United States. Secondly, that every capitation or direct tax shall be in proportion to the census or enumeration which it directs to be made of the people. Now, the tolls required to be paid by this bill are not in conformity with either of these limitations: it is neither apportioned upon the people of the United States according to the census, nor can it be pretended to be uniform throughout the United States; for the obvious reason that it is required only of those who pass one single road, and for the liberty of using it. A tax for the use of a road surely could not be uniform unless it was required, to the same amount, of those who passed all the roads in the United States. To illustrate this by example: suppose that Congress, in consideration of a great expenditure upon a particular harbor, should require the ships entering that harbor only to pay a tonnage duty, or to pay a larger tonnage duty in one port than in another; or suppose that we were to require postage upon this road only, or a larger postage upon this than any other road, is there a member of this committee who would say that the constitution would not be violated in either case? And if it would, then it follows that this toll cannot be imposed.

But there is another view, which will place this subject in a strong light. Whosoever will attentively examine the constitution, will find that all the powers which it gives to Congress have relation to persons and things, except two: those two are the power to exercise exclusive legislation over the seat of the Federal Government, and places purchased for the erection of forts, magazines, &c., and the power

JANUARY, 1829.]

Cumberland Road.

[H. OF R.]

to dispose of, and make all needful rules and regulations respecting the territory of the United States. Now, sir, the rule which has been established, *ex cathedra*, by which to decide in what cases the sovereignty of the States has been alienated to the Federal Government, is this: that the States retain all the sovereignty which the constitution has not delegated exclusively to the United States. This exclusive delegation, says the same authority, only exists in three cases: 1st, where the constitution in express terms grants an exclusive authority to the Union, as, for example, the exclusive legislation over the seat of Government, &c.; secondly, where it grants an authority to the Union, and prohibits the States from exercising a like authority; as, for example, the power to coin money, which is granted to Congress, and prohibited to the States; thirdly, where it grants an authority to the Union, to which a similar authority in the States would be absolutely and totally contradictory and repugnant. One example which is given, is the power to establish a uniform rule of naturalization throughout the United States; this, it is said, must be exclusive, because, if each State had power to prescribe a distinct rule, there could be no uniform rule. Except in these three classes of cases, it is said, that, as the State sovereignty is not alienated, Congress have not exclusive power, and consequently the State Governments have a concurrent power with them. The third branch of this rule, that is, the one which declares the power of the Federal Government to be exclusive, where an authority is granted to the Union, to which a similar authority in the States would be absolutely and totally contradictory and repugnant, has a direct and important bearing upon the present question. Where the powers of the Federal Government expend their force upon persons and things, there may be many instances in which, under this principle, the States may claim a concurrent power, because the operation of the Federal Government upon them does not necessarily exhaust the power. Even in the very strong case of taxation, it is said the States have this concurrent power; though there may be inconvenience in the action of the Federal and State Governments upon the same subject, yet there is no necessary contradiction and repugnancy, because, though the one Government should consume a portion of the property of the citizens by taxation, a portion would still remain for the demands of the other. But, sir, this cannot be the case where the Federal Government claims to exercise a direct jurisdiction over the soil, even in regard to mere property, though different persons may, at the same time, own a joint interest; or, one may own a present, and another a future interest; or, there may be other possible circumstances producing modifications of interest; yet, it is a proposition which cannot be denied, that two different persons cannot, at the same time, and in the same subject,

possess distinct and independent rights, each embracing the whole interest in that subject; this would be legally as impossible as it would be physically for two different masses of matter, at the same time, to occupy the same space. If this would be the case in regard to property, how much stronger is the proposition when applied to jurisdiction.

All the powers of Government may be considered as emanations from its sovereignty; but what I now speak of, is that complete and perfect jurisdiction which necessarily includes, as a part of its definition, the right in, and power over, the domain or territory. Whosoever and wheresoever this jurisdiction is exercised directly over the soil, as the subject of its action, it must be exclusive; because, as the jurisdiction of a Government embraces the whole right in and power over the soil, whenever it exercises it directly on that subject, the jurisdiction of any other Government must necessarily be absolutely and totally contradictory and repugnant, if brought to act upon the same subject. Thus, to illustrate: When the General Government shall have turnpiked a particular road, and established toll-gates, if a State were to attempt to regulate or to claim the same road, the two powers could not exist together—the action of the first Government directly upon the right of soil having exhausted the whole subject, and expended the whole power over it. Accordingly, with a view to prevent this necessary collision of jurisdiction, in the clause relating to the seat of Government, &c., the jurisdiction or legislation is, *totidem verbis*, declared to be exclusive; and, in the other, to dispose of, and make all needful rules as to the public land, it must be exclusive, from the necessity of the case; because, no other power can exercise jurisdiction, inasmuch as that implies the ownership in the domain, which is in the General Government alone. We are told, however, that Congress have passed laws to punish robberies of the mail, &c., and that this power is no stronger. I answer, that, without stopping to inquire whether they rightfully had power to pass such laws, there is no analogy in the cases; because, there the power acts upon persons, but here it proposes to act directly upon the soil as its subject. No one can doubt but that the erection of toll-gates and demanding toll is an exercise of jurisdiction which can be founded only on a right to, and power over, the soil. If so, and the principle be true, that the jurisdiction in the Federal Government, in its direct action upon the soil, must, where it exists at all, be exclusive, then it results that the States have not, in this respect, concurrent power—that is, that they cannot turnpike any road which is declared to be a post road—thus giving to the General Government exclusive jurisdiction over one hundred and fourteen thousand miles of post road, which we now have, without the assent of the States, though the constitution requires that assent before it can be divested of

its jurisdiction, in the small surface which is the seat of Government, and the other inconsiderable places which it enumerates. Again, sir. See to what lengths this principle would carry us. If Congress have a right to turnpike roads, then they have a right to adopt the accustomed means of doing it; but, one of the most usual means is the incorporation of companies; and thus we might have every road in the Union in the hands of incorporated companies, demanding tolls of the people, which Congress must make high enough to yield them a dividend upon their stock. This is not all: we are told that the right to create implies the right to preserve. Upon this principle, Congress might, with a view to preservation, prohibit any citizen from passing it, unless his wheels were of a given width; and, indeed, in this very bill, it is provided that those whose wheels exceed six inches in width shall be exempt from toll.

But, sir, I affirm the proposition, and I call upon gentlemen to refute it if they can, that, with the exception of the cases provided for in the constitution, of a seat of Government, the sites of forts, magazines, &c., it is not competent for the General Government to exercise jurisdiction, or to acquire by purchase, jurisdiction and property, in and over one square foot of territory in one of the States. Let me not be misunderstood; I speak not here of our public lands lying within any of the States; our power over them results from a substantive and distinct provision of the constitution. But my proposition applies to those States, in all the soil of which the State Governments have the right both of soil and jurisdiction: such, for example, as the State of Massachusetts. In such a case as this, I repeat, that I defy a refutation of my proposition.

I have two objections to the amendment, which I would desire to have obviated. They are these: I would prefer that the language should be all the right which we claim to have, rather than as it is, all the right which we may have; the other is the proviso, which proposes to attach certain conditions to the surrender. I would prefer an absolute unqualified surrender of all our pretensions, expressed in terms which could not, by implication even, be tortured into any admission that we had claim; but if these objections cannot be removed, I will vote for the amendment in its present form, as the nearest attainable approximation to what I think ought to be done.

[Here the debate closed for this day.]

FRIDAY, January 28.

#### *Retrenchment.*

The following resolution, reported from the Committee on Retrenchment, on the 21st inst., by Mr. WICKLIFFE, came up for consideration:

*"Resolved by the Senate and House of Representa-*

*tives of the United States in Congress assembled, That the Secretary of the Senate and Clerk of the House of Representatives, shall prohibit the use of the stationery of the two Houses, in folding or endorsing any documents, pamphlets, or package, other than such as may have been printed by order of either House of Congress, or such manuscript documents as may relate to the business of the same."*

Mr. WICKLIFFE briefly stated the object of the resolution, as intended to prevent the unwarrantable use, or the abuse of the existing privilege of members in relation to stationery, by enclosing, for the purpose of distribution, matter which had no connection with the business of the House.

Mr. WILDE inquired of the mover whether any resolution had been reported from the Committee on Retrenchment, showing the existence and the extent of such an abuse as the gentleman seemed to refer to. Without the most convincing evidence of the fact, he should not be willing to vote for such a resolution as this. He had always been opposed to the sanctioning, except on evidence the most incontestable, any self-condemnatory ordinance. He had occasion, some years ago, to say to the House, "*A fronte recedentes Imperii.*" He thought the House had done this. They had receded from the front of empire by stigmatizing their own body. The conduct referred to in this resolution was admitted by all to be unworthy of members of this House, and he would not throw before the public an imputation of it to them without the fullest proof.

Mr. WICKLIFFE spoke in reply. If the gentleman would read the report made by the Committee of Retrenchment, at the last session, and would compare it with the instructions given by the House to that committee, he would see that their duties had special reference to the expenditures of this House. The committee had not proposed to retrench any of the expenditures in the departments, however great might be their amount, if they considered them necessary to a correct administration of the affairs of this Government. In the course of the investigation, the committee became fully satisfied that the original purpose, had in view by the House, in furnishing stationery to its members, had been greatly perverted by an improper use of the privilege. He did not pretend to say who had been most to blame, or who had been to blame at all, in this matter. He would not say that he was himself wholly exempt from deserved censure. It was highly probable that, partly from the force of habit, and partly from the influence of the example of others around him, he might have been induced to extend this privilege beyond its proper limits. He would state one or two facts to the House: within the first sixty days of the last session there had been printed (as he understood, and had reason to believe, for he could not speak with absolute certainty) within this District, between thirty and forty thousand copies of the Richmond address, besides ten

JANUARY, 1829.]

*Retrenchment.*

[H. OF R.]

thousand copies of the North Carolina address, and several thousand of the address from Washington, in Pennsylvania. All these had been folded and wrapped up in the folding rooms of this House, or at least out of the stationery furnished for the use of members. Besides these, two other documents had been put up in like manner, one of them purporting to be a copy of the official documents respecting the Six Militiamen; the other was a document purporting to have been written by a gentleman from Ohio, but whose contents were known to those only who had read it. He did not say or insinuate that a similar practice had not prevailed on the other side of the late great political controversy. No doubt great abuses had taken place on both sides. But this formed only an additional reason why the resolution ought to be adopted. If any gentleman would compare the account for stationery furnished at the last session, with that of any preceding year, he could not resist the impression that more of the public stationery had been consumed than was called for by the business of this House.

Mr. STOKES said that there had, perhaps, been some abuse in the matter referred to in the resolution, and he thought it should be corrected. The amount consumed last year for stationery, he had been informed, was upwards of six thousand dollars. There was convenience, too, in permitting members to purchase their own stationery. By a specific allowance this may be done, and from three to four thousand dollars cut off from the expenditure. If members were to be allowed any stationery at all, he thought this was the best course, and moved to amend the resolution as follows:

After the words House of Representatives, strike out the balance of the resolution, and insert: "Shall audit, at each session of Congress, and pay, out of the contingent funds of each House, the accounts for stationery of the members of each House, actually paid by them; not to exceed the sum of ten dollars for each member, during one session: and that the practice of furnishing stationery to the members, from the Secretary's and Clerk's offices, be discontinued."

Mr. EVERETT said he was opposed to the amendment, for the same reasons for which he was opposed to the original resolution. He had opposed it in the Committee of Retrenchment, and must vote against it in the House. He should not go into any calculation as to the number or kind of documents which had been folded in the public paper. The gentleman from Kentucky (Mr. WICKLIFFE) had made a statement of abuses—for abuses (Mr. E. admitted) they were—which had taken place, in this respect, on one side of the question, and had been candid enough to admit that similar abuses had taken place on the other side of the question. This is, perhaps, all that is necessary to say, on this point, with the addition of one qualification. Mr. E. believed that the abuses, which

the gentleman had not specified, were at least equal to those which he had. But he should say no more about it; they were abuses on whatever side they took place. He was opposed to the resolution and amendment, because the subject-matter is one which we cannot regulate by public enactment. It is one of those things which must be left to public sentiment, or the private sentiment which exists in the bosom of every member. He was, himself, willing to do away with this whole apparatus, of which the stationery is a part. He was willing to have the hall swept and garnished—cleared of these incumbrances, and exclusively appropriated to the objects for which it was constructed, and the members of the House were convened. But he believed it was out of the question to attempt to remove the desks; and while they remain, it seemed not worth while to attempt to do away the supply of a few sheets of paper, pens, and ink, furnished at the desks. And how can you draw a line between furnishing these small articles, and those lavish expenditures, justly complained of, by any thing but the operation of a sense of honor on the part of the members of the House, or of public sentiment upon them. If any thing could be effected by regulations, we have them already. By what right are reams, he had almost said cart loads, of paper furnished for the folding of electioneering pamphlets? Who furnishes it? Who pays for it? Have we no executive officers of this House? Have we no Committees of Accounts? Must any thing, and every thing, in the shape of an account, be passed? Mr. E. asked not to be mistaken. He cast no censure on the officers, or the committees of the House. They would go as far, no doubt, as the House would support them. But of what use was it, to pass a resolution, directing the Secretary of the Senate and Clerk of the House to do that, which they were already able to do in the general discharge of their duty. Mr. E. thought a protracted debate on this subject, at a moment when so much business of importance was before the House, was inexpedient; and for this reason, moved to lay the resolution on the table.

The motion of Mr. E. was determined in the negative.

Mr. BATES, of Missouri, said he was not quite sure that it would be considered proper for him to meddle in questions of this sort; but of this he was sure, that he would think and speak upon this subject as disinterestedly as any gentleman here. My days on this floor, said Mr. B., are numbered, and are few; as a member of this body, therefore, I cannot be greatly affected by any new course that may now be adopted. I have always understood that the practice of supplying members with public stationery was for the good of the public, and not as a personal kindness to the members of this House—for the purpose of facilitating the diffusion of useful knowledge among

the people, and not partaking in any degree of the character of individual interest. I never, for an instant, supposed that my right to use the public paper and to frank packages, was designed as a personal boon to me, but have always acted upon the idea that it was the privilege of my constituents, intended exclusively for their benefit. It is the established practice of the House to order the printing of great numbers of public documents for the use of the people, evidently not to be read by us, because they are folded and sealed, and placed on our desks, ready to be franked and mailed. This privilege is highly useful to the public, and it is no valid argument against it that it is liable to be, or actually has been, abused. Every other good thing is obnoxious to the same objection. Sir, it is the theory of our Government, and I believe that it is very true in fact, that any man, whom forty or fifty thousand people may consider fit to represent them on this floor, is entitled to have imputed to him some little touch of discretion and honesty. If the consciousness of the dignity of a seat here, or a consciousness of personal respectability among individual members, cannot restrain a dishonest propensity to mean and grovelling speculations on the public, I shall despair of the efficacy of any rules we may adopt. The privilege of using public stationery must be withheld altogether, or the regulation will lead to consequences infinitely worse than those already existing. You cannot enforce the modified enjoyment of the privilege, as proposed in the resolution, without the exercise of an inquisitorial power over members, dishonorable alike to those who exercise, and those who are subject to it. The abuses referred to by the gentleman from Kentucky, (Mr. WICKLIFFE,) arising out of the high political excitement at the last session of Congress, are not to be wondered at. They will occur on both sides, whenever such extraordinary excitement prevails. The public curiosity on such occasions is on the gaze for news from the seat of Government, and it is no matter of surprise that errors of judgment should sometimes be committed, as to the importance of the matter diffused among the people. The abundance of our self-love makes us prone enough to consider every thing that concerns ourselves as of sufficient importance to be worthy of a circulation.

Mr. WICKLIFFE said that, as to the propriety of adopting either the original resolution or the amendment, or of postponing both indefinitely, although the gentleman from New York (Mr. CAMBRELENG) had seen fit to denominate the whole a small business, still the resolution having received the votes of a majority of the Committee on Retrenchment, and he having in obedience to that committee reported it to the House, he felt himself called upon to make one or two observations. He could not perceive exactly how those gentlemen, who had been last session zealous in the cause of retrench-

ment and reform, could possibly be opposed to a resolution like this—a resolution which proposed to correct, by the authority of this House, abuses existing within its own domicile, and which, whatever gentlemen might say to the contrary, did call for correction in some shape or other. He would inquire of the gentleman from New York, whether a waste of the public stationery to the amount of two or three thousand dollars annually, was not as worthy of that gentleman's attention, as three or four hundred dollars expended for newspapers in one of the Departments. The amount, it was true, might not be of any great magnitude, yet it was a manifest abuse. Whether it was one which had sprung from a sudden emergency, or had insensibly grown up from a course of gradual indulgence, he would leave to the gentleman from Missouri to determine. All gentlemen seem to admit that the abuse had existed. The gentleman from Missouri might say that this resolution would not correct it; but, for himself, he was satisfied that it would. But, should even this be evaded, no doubt that gentleman's ingenuity would soon suggest a remedy. Very possibly he (Mr. W.) might be situated in the same manner as the gentleman from Missouri. It was very possible that he too might have but a few remaining days to spend here. That was a matter which did not depend on his own will. The resolution did not go to prohibit such a use of the public stationery as the will of Congress had permitted to the predecessors of those who now constituted that body. It was only intended to prohibit its application to matters not connected with the business of legislation. Would this House raise a committee for the express purpose of pointing out existing abuses, with a view to their correction, and then, as soon as the committee pointed out an abuse, and proposed a remedy, immediately vote it down, because it might possibly lead to abuse in some other form? Would not the adoption of such a resolution as this make its appeal to the moral feelings of a succeeding Congress? Was it to be believed, that, in the face of such a resolution, members of this House would send their stationery to their private lodgings, in violation both of its spirit and letter? If such a member was to be found, and the fact could be proved upon him, any gentleman that would move for his expulsion should have his zealous support.

#### *Lotteries in Washington.*

The bill to continue in force the provisions of "An act to authorize the Corporation of the City of Washington to draw Lotteries," was considered in Committee of the Whole, and occasioned some debate.

Mr. INGERSOLL explained the reasons why the Committee on the District had reported the bill. He disapproved of lotteries as much as the gentleman from New York; and if this were a proposition for the original grant of one,

JANUARY, 1829.]

*Retrenchment.*

[H. OF R.]

he should take the same ground, and certainly oppose it; but it was merely for the renewal of a privilege formerly granted. Mr. I. then went into an explanation of the circumstances of the case. The bill did not release the Corporation from its existing liabilities, and he thought the experience of that body was a very sufficient security that they would take good bonds for the future.

Mr. KREMER warmly opposed the bill. He had opposed it in committee, and would oppose it in the House. What security did that House possess, that, if they should pass the bill, the Corporation would not do the same thing again? Then another loss would happen, and the same argument would be urged upon the House again. Was it wise and prudent to encourage lotteries? If it was not, the House ought not to do it. If an evil was committed ten years ago, that was no reason that it should be committed now. The Corporation of Washington, it seemed, had made a bad bargain, and now that was urged as an argument why the House should give them an opportunity of making another bad bargain.

Mr. MARTIN had not had an opportunity of consulting the original bill, which the present one proposed to extend; and on his motion, the bill was laid aside for the present.

SATURDAY, JANUARY 24.

*Retrenchment.*

The resolution from the Committee on Retrenchment, on the subject of stationery, coming up.

Mr. VANCE said that he had no disposition to debar gentlemen from the ordinary use of stationery in the House, as heretofore, nor would such be the effect of his amendment. The business of the House would proceed as usual. As to correspondence, he could hold up as large a bundle of letters as the gentleman from Kentucky; [which he did.] A great noise had been made on the subject of reformation and retrenchment; but, after waiting so long, what had the House received? Three bills and one resolution. One of the bills proposed to make an alteration in the mode of furnishing the forage of officers in the army; another cut up the appropriation for the Indian department; the last was to discontinue secret service money during peace; and now the honorable gentleman's resolution went to save a few reams of paper. He would not say that he was more fit or more disposed to discover objects for retrenchment than the gentleman; but he really thought, if he was honored with a place in that committee, he could find more worthy objects than these. He would bring in a bill to take off five thousand dollars a year from the President's salary; he would take off the Speaker's extra pay; and he would dock off something from the pay of the members of this House. This would be doing something. Such a bill

would be worth reporting. As to the present resolution, seeing that it had come into the House, he, for one, was prepared to meet it; he was ready, for his own part, to pay for all the stationery he made use of; it would not cost him more than six dollars, with which sum he could diffuse all useful information through his district, as well as if any quantity of paper should be furnished him out of the public purse.

Mr. HAMILTON said that he was exceedingly happy that the gentleman from Ohio had indicated so keen an appetite for retrenchment, and hence he hoped that the committee would have the benefit of his co-operation throughout the discussion of their measures; but it is a little hard that the eagerness of the appetite of the gentleman should be such, that he should be for proceeding to the banquet before half the dishes are served up. Permit me to assure him, that, before the committee have finished their labors, he will have subjects sufficiently comprehensive and various for the full exercise of his patriotism and love of frugality. It is true, sir, that the committee have reported but four or five bills as yet, and one resolution; and those not the most important in connection with our late investigations. Other bills, however, are in progress and preparation, and, I trust, in the course of the next week, that they will all be presented to the House. This delay no one regrets more than myself, more especially as it resulted from my own absence at the early part of the session. It has so happened, that the discussion has commenced on one of the most inconsiderable items of retrenchment which the committee have recommended. Yet, he trusted that, minute as was the subject, it might find its apology in this truth, that, however wrong it might be that charity should begin at home, it was right that retrenchment should do so. But he frankly confessed, he was greatly opposed to a waste of time on one item of the retrenchments of this House, when, perhaps, the same consumption of time would be sufficient for a full consideration of all the savings which the committee designed, in their bill, to propose for the consideration and adoption of the House. With this view, he should renew his motion to lie on the table.

Mr. LONG observed, although opposed to the principle contained in the resolution, he would prefer meeting the question now. If economy be the object, and the resolution is to pass, he thought the House ought to act promptly; he was not sure but it would have been something more of a saving to the Government, if the resolution had been passed yesterday, inasmuch as it had been suggested that there had been, in the course of the last evening, I will not say in anticipation of the passage of the resolution, some pretty heavy draughts made in the stationery. Should it be postponed a few days longer, it would afford ample opportunity for all the members to be

furnished in the same way; consequently it must lose its effect for the present Congress. Mr. L. would say a word in relation to the remarks of the gentleman from Kentucky, (Mr. WICKLIFFE,) made yesterday on the subject of the resolution now under consideration; he did not, at the time, so particularly notice the observations; but in his printed speech, which appears in the morning's paper, he has given a tolerable minute statement of the number of copies of the Richmond address, the North Carolina address, and Militia documents, which he said had all been wrapped up in the folding rooms. This information is given and gone abroad for the benefit of the people. Now, no doubt, it is equally desirable that the people should be informed as to the number of copies of the Telegraph extra, &c., which was about that time circulated in the same way. He had no doubt the gentleman had it in his power to give this information, which, perhaps, might be deemed of as much importance as the parts he had communicated so minutely.

The resolution was ordered to lie on the table—yeas 106, nays 62.

MONDAY, January 26.

*Cumberland Road.*

The House went into Committee of the Whole, and took up the bill for the preservation and repair of the Cumberland road.

Mr. FORT said: This question, like all others of great importance, ought to be discussed dispassionately. I feel that I can meet it calmly; but I am well aware that it will be impossible to present my view of it, without running into that disputed ground, so loudly defended by those who, it would appear, are the guardians of the rights of the States. Sir, I have attended patiently to this discussion; I have heard much of the growing powers of this Government, and of the imminent danger impending over the States and over the people; yet I never in my life felt more thoroughly convinced that these opinions are illusory and the fears entertained entirely groundless. This Government cannot exist a single day after the Governments of the States are destroyed; nor can it deprive the people of their liberties unless they shall become tired of the precious inheritance, and, like a famous nation of old, who enjoyed a Government established by the Most High, cry aloud against it, and, destroying its powers, bury themselves and their liberties in the mighty ruin. May our nation profit by the example of the punishment which they have suffered and yet continue to suffer.

Three questions present themselves for discussion under the bill on your table:

1. Has the Government of the United States power to construct roads within the States?

2. Has it power to levy tolls on roads thus constructed? and,

3. Is it expedient to exercise this power in the present instance?

Having risen to deliver my opinion in support of the bill reported by the Committee on Roads and Canals, it is obvious that I answer all these questions in the affirmative. To sustain these opinions, I deem it best first to notice, what I think the principal errors lying at the root of this subject; and from which have sprung the arguments deemed so conclusive against us. These are—

1. That this Government is a compact between the Governments of the States.

2. That its powers are derived from the State Governments.

3. That it properly exists only within the ten miles square, composing this district. And,

4. That the sovereignty of each State over its soil, is paramount and exclusive.

It is obvious, if these propositions are not founded on a just view of the constitution, but are, on the contrary, wholly untrue, a great part of the argument which has been advanced on this question must fall to the ground. I shall, therefore, bestow some attention on each of them. In the first place, let us inquire whether this Government is a confederation of independent sovereign Governments. Every Government is, in some sense, sovereign, and the States, within their limits of power and territory, are as truly so as any Government on earth. But the people of the United States live under no Government having boundless authority; and, although the term sovereignty is of frequent use amongst us, it invariably means no more than the sovereign power known under the Government we live in. Nothing has contributed more to darken this subject, than the obstinacy with which the definitions of sovereign powers, drawn from foreign countries, whose Governments have not a principle in common with ours, are brought in and applied to the States and to this Government. This subject cannot be thus explained or understood: our form of Government is too complex. True, it is wholly derived from one simple element, the will of the people; but, as it was impossible to bring this will to bear on the various circumstances requiring its exercise, our ancestors happily fell on the plan of delegating this power to proper agents. No one has denied the authority of the Constitution of the United States; nor, so far as I know, has any denied the obligation of individuals to conform to its laws; but the difficulty is, how far it may bind the States, without destroying that sovereignty reserved to them by the people. That we may not wander in this discussion, let us look a little into the history of the formation of this Government.

The Governments of most of the States existed before the establishment of this. The war of the Revolution left these States united by a compact, whose obligation, under the patriotic feeling prevailing during the conflict, was sufficient to preserve them through the arduous struggle. But the experience of a few years demonstrated that this compact was in-

JANUARY, 1839.]

*Cumberland Road.*

[H. OF R.]

sufficient to perform the duties of a Government in time of peace. A heavy debt existed, which each State felt itself bound to see discharged, and this required something like a National Government. It is obvious, through all the stages of the proceedings had towards the establishment of the Constitution of the United States, that its founders deemed it invalid till ratified by the people themselves. The convention who framed it, therefore, returned it to the people for their sanction; and by whom was the sanction given? By the State Governments? By no means. The people chose delegates to meet in convention for this particular purpose; and by these conventions was this sacred instrument ratified and confirmed; and from that day till the present has it been considered as binding equally on all the States, and on all the people, deriving its powers from the highest authority known in this country—the people. True, this sanction was not obtained through popular assemblies; the people met in their geographical divisions; and in the only practicable way, I repeat it, gave to this Government the impress of their sovereignty.

I take it as granted that the Constitution of the United States was ratified, and consequently enacted by the people of the United States, and not by the State Governments. But let us look a little closer into this matter. Let us suppose the convention who framed it convened for the purpose; what can we suppose was the first object of their desire? To form a Government qualified to secure the happiness of the people. This is acknowledged by all the world to be the only true object of Government. No matter with what despotism or what fanaticism the liberties of the people are destroyed, whether it be by the cruel Autocrat, the infatuated Turk, or the bigoted Spaniard—all declare themselves the guardians of the happiness of the people. How much more are we justified in thinking that this was the ruling desire of our glorious convention. Follow them a little further; the objects deemed necessary to this great end gradually develop themselves; the instrument, intended to be invalid till sanctioned by the people, speaks in their name.

"We, the people of the United States, in order to form a more perfect union; to establish justice; ensure domestic tranquillity; provide for the common defence; promote the general welfare; and, above all, to secure the blessings of liberty to ourselves and our posterity."

These are the great ends to be accomplished, and they are worthy of the statesman and the sage. It was requisite to point out the means necessary to accomplish these great ends, and this is done in that wonderful instrument, equally distinguished for brevity and comprehensiveness—the Constitution of the United States. The power to construct roads is nowhere mentioned in the constitution, as belonging to the United States. If it exists at all, it

is as an incident to the powers specially granted. The special grants of means or power, to this Government, which it appears to me may, in the administration of its affairs, require the exercise of the power to construct roads, are principally these: "To lay and collect taxes, duties, imposts, and excises." "To regulate commerce with foreign powers, among the States and with the Indian tribes." "To establish post offices and post roads." "To provide for the public defence and general welfare of the United States." And, "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or any department or officer thereof." I have said that these powers were granted, not by the State Governments, but by those whose power will not be disputed here—the people of the United States. Over whom and to whom have they directed their mandate? Hear them—"This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges of every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding." Could it be believed that this power thus granted, maintained, and executed, by every successive administration of the Government, for forty years, should now be a matter of question here? Could it have been dreamed that an argument to prove that this Government is clothed with power to execute its laws, as well within the States as elsewhere, would have been listened to for a moment? What then—does it follow that the States have no means to preserve themselves, or that the people are subject to an arbitrary power? Far from it. The people have reserved in their own hands, and in the State Governments, powers ample for the defence of both. But of these I shall say more hereafter.

2. Are the powers of this Government derived from the State Governments? I think I have shown that its powers are derived from a higher source. That the sovereignty it exercises is from an authority as much greater than that of a State, as the whole of the people are greater than a part; and that it is not only so from the reasonableness of the thing, but has been uniformly so received from the foundation of the Government. It may, however, be proper here to notice the many frightful pictures drawn of the decaying powers of the States, and of the rapid strides making by this Government towards absolute power and unlimited dominion. Nothing can present itself to my mind more idle than this fear, or more unfounded than these opinions. Have gentlemen failed to notice that this Government ceases to exist with those of the States? Have they failed to notice that the people themselves



not only control us through returning elections, but the State Governments can decree our annihilation at their pleasure? No doubts exist on this subject. Let the State Legislatures cease to elect Senators, and soon the Senate ceases its existence; let them fail to provide for the election of electors, and where is your President? Let them repeal their laws providing for the election of members to Congress, and where is your Government? Dead, to all intents and purposes. Sir, this Government was not made for tyranny, but for liberty. True, it is strong: for how else, in this day, could it exist without strength? But let it be observed, and I say it without fear of refutation, that, although the United States possess the power to defy the greatest power on earth who should dare to invade us, yet they are nerveless, yea, dead, that instant they lose the confidence of the people. Far different is it with the State Governments: they have a self-existing principle, and may, in the sad day of our dissolution, survive our fall. True, they ought to be watchful; liberty flies from the sluggard: but let them not think of finding liberty by the destruction of this Government. They have nothing to fear from it. True, it may itself be overthrown by the means raised to defend us against our enemies. A traitor, at the head of our own army, might be a dangerous foe to liberty; but let it be remembered that, if the State Governments fall, this Government is also extinct: their confidence and united efforts should remain perpetual: for their interests are one.

8. Does this Government exist only in the ten miles square composing the District of Columbia? This notion, although not perhaps distinctly avowed, appears to me to form the basis of a great portion of the most abstruse reasoning, which has been advanced on this occasion. Surely, it cannot be derived from the study of our institutions, but is a worthy offspring of the writings of foreign jurists. With them, sovereignty means an unlimited power, and, therefore, two sovereignties cannot exist in the same place, or operate on the same thing: and follow their train of argument from their definition, and their conclusion is certainly true. But, as I have before said, the people of this country live under no such sovereignty, and this is fully admitted; but the many legal fictions, the boast of the English lawyer, but, in my opinion, the disgrace of his code, are not so readily shaken off. In this argument, we are told there can be no concurrent jurisdiction, and from definitions equally, perhaps, sound, and inapplicable to the case. I confess, the study of this part of the subject has opened a sort of fairy world, in which it would seem to be the first element of correct judgment to give up the evidence of the senses. Even the late Mr. Pinkney, whose powerful intellect would not suffer the cobwebs of doctrine to obscure the end of the law, is unable to see into this subject without the help of fiction.

Knowing that this Government could not exist, if its army, mail-bags, custom-houses, ships, or other property, necessary to the execution of its powers, were subject to taxation in every State they might happen to be in, he discovers a way to save the maxim about sovereignty, and yet maintain the law. Let him speak for himself: "The property, and all the institutions of the United States, are constructively," yea, constructively, "without the local territorial jurisdiction of the individual States, in every respect, and for every purpose, including that of taxation." What! the forts, arsenals, public dockyards, arms, and other property of this Government, while within the States, have no protection from the grasp of such States, except by construction, and that construction in the face of common sense? Now can any thing be more absurd than this? And how could such an absurdity maintain its ground in so powerful a mind? Because the States of this Union are declared sovereign? and no thousand facts can do away the notions infused into the mind by this magic word. Give me matter of fact, not fiction. If we have no Government, let the people know it at once, and provide one. But how stands the fact here? Is this Government really alien to the States? Or, is it equally at home in every State or territory in this Union, claiming an exemption from taxation on its means of carrying on its operations through that paramount sovereignty, derived from the people themselves? Why resort to fiction? Are we afraid that the people should know the fact that we attempt to blind them with fiction? True, this district is a residence for the functionaries of this Government, and the seat of its legislation. But the people know that no part of its power is derived from the ten miles square. Every member of both branches of Congress are citizens of the States, and subject to their laws. Every President and every Head of Department, have, so far as I know, been likewise citizens of some of the States. They are taken from among the people, to enact and execute laws operating to the whole extent of our territory, and this Government is, in fact, equally at home in all the States and Territories of this Union.

4. I come now to consider what seems most insisted on, and is, I believe, declared to admit of neither doubt nor exception. Do the States enjoy a paramount and exclusive jurisdiction over the soil they cover? So long as this Government exists, its enactments are nothing, unless of force in the States. They are worse than nothing, if subject to be repealed, directly, or indirectly, by the individual States. And, how, let me ask, can this Government carry on its indispensable operations, without exercising sovereignty over the soil? True, this sovereignty, although paramount for its purposes, is not exclusive, even for forts, arsenals, &c., unless by the consent of the States in which they lie, so abundantly guarded are the rights of the States. But, for all the necessary purposes of

JANUARY, 1829.]

*Cumberland Road.*

[H. OF R.]

its institution, this Government, by the declaration of the people themselves, the uniform decision of its courts, and the legislative enactments of every administration, from its commencement, is declared to have a paramount jurisdiction over the whole Union. The powers of this Government are co-equal with its duties. It must establish post roads, regulate internal commerce, defend us against our enemies, have fortifications, march its armies, and occupy so much space as these operations require. Suppose a State were to refuse her consent to each and every one of these operations; by what right would this Government enter her territory for either purpose, if the State sovereignty over the soil is exclusive?

I have used freely the term sovereignty. I am apprised that it is at the risk of being misunderstood or misrepresented. I disclaim all definitions of this term, which signify a power unknown to the constitution. I have used it because it is so liberally and exclusively applied to the States, by those in opposition to my views. I grant that each Government is equally entitled to the term, but must again repeat, that the people of this country acknowledge no sovereignty inconsistent with that liberty which they have again and again declared to be dearer than life, and which he who surrenders is unworthy to live.

If I have been so fortunate as to have conveyed my ideas intelligibly, in what I have said, little more will be necessary to point out the opinions I entertain on this subject. I think I have shown that the United States is a Government of the people, and that its powers are all sovereign and paramount, though, in many instances, not exclusive. That, if it can make a road, it must do so as a sovereign power, and, if so, a power to tax for the use, is a necessary and proper incident. But this power, although sufficient for its objects, can be extended no farther. It can never be extended to forbid a State from making as many roads as it thinks proper, nor can it claim from the citizen any tax except he travels the road. And it is equally untrue, that the legislation of Congress, on this subject is intended to be exclusive. The sovereignty of the States over this road remains uninterrupted for all the purposes of her civil and criminal jurisdiction, and Congress is restricted in its legislation to those measures which may be necessary and proper to construct, preserve, and keep it for the purposes of the nation. Nor have the individuals on this road been invaded without a strict observance of that clause of the constitution requiring compensation to be made to them for every damage they have sustained.

Sir, it was obvious that a successful opposition to this bill required that the force of legislative precedent should be destroyed. I confess this forms no conclusive argument; but, in spite of what has been said to decry its influence, I must still point to your statute book. If the exercise of incidental powers, from the

establishment of the Government to this day, has not developed proofs of the absolute necessity of the frequent use of those powers to the existence of this Government, then I think the argument must be yielded to our adversaries. The framers of the constitution did not attempt a code of laws, but a constitution. They knew the age they lived in, and had they been required to do so, it was beyond the wisdom of man to devise laws suited to the progressive wants of this expanding nation. They knew that it would be equally vain and pernicious to attempt to fetter society with a code like that of the Locrians, or the more renowned laws of Lycurgus. No, sir: the march of knowledge, and the spread of institutions, beneficial to mankind, forbade it. A form of Government they gave for our acceptance; and, wonderfully comprehensive as it is, few, very few of our laws are founded directly on the powers granted to Congress. The whole post-office code, extending to punishment of the people for every hindrance or injury to the mail, and even forbidding the reasonable liberty of carrying letters for hire on private account, are passed by powers incidental to the right to "establish post offices and post roads." The revenue laws, and the tariff among them, are incidental to a right "to regulate commerce." Nor is this the most remote incident to this power which has been exercised. Buoys, beacons, lighthouses, dockyards, and sea walls, have risen under it, and a tax on all who use this light is exacted on the same principles.

The treaty-making power appears to carry incidents still more wonderful. The power to make treaties has carried with it that to buy those invaluable possessions Louisiana and Florida, and not only to pay for them twenty millions of the people's money, but to bind this Union to accept of them as States, equal every way to those who made the purchase. Where is the authority granted to this nation to have passed these laws? I venture to say they are nowhere to be found, except in the incidental powers granted by the people in the constitution. And shall we acknowledge all these powers—the right to take away the lives of our citizens, to consume millions of our money, to open to foreign nations the door of union and equal sovereignty with ourselves, and yet shrink back from the power to make a road, which is equally an obvious incident to granted power?

I have said that all the powers of this Government must be sovereign. No State can add to them, except in the instances pointed out in the constitution. I, therefore, think it unnecessary to say much on the subject of compacts made with the States, on the subject of this road. If we had not the right to make this road, before these compacts, we have never had the right. But if we have that right, certainly an obligation to exercise it might grow out of the compacts alluded to. This view of the matter seems the only rational account of

it. The road in question is beneficial to the States through which it runs; but it is invaluable to the States lying beyond it to the West. To grant power to make it is a strange way of asking a favor of such magnitude; to have made a compact requiring its construction, was a regular and ordinary exercise of that attention to our interest, so indispensable in all the transactions of life.

Mr. BARNEY remarked that, as a Representative of one of the States to which this road was to be transferred, not as a gratuity, but clogged with onerous and oppressive conditions, it became him to investigate the title, and to be well assured of its validity, before he could give his assent to the transfer. In the present dilapidated condition of the Cumberland road, in consequence of the continued neglect of Congress to make adequate appropriations for its repair, it will require a large expenditure to put it in a condition to erect toll gates, which, by turnpike law, are to be thrown open whenever it shall cease to be in good travelling order. One hundred thousand dollars is appropriated by the original bill to this object. [Mr. BUCHANAN stated that this amendment did not propose to strike it out.] Thus, (said Mr. B.,) the leading question presents itself: What authority does Congress possess to delegate to the States of Pennsylvania, Maryland, and Virginia, a power which the gentleman from Pennsylvania, and all who support his amendment, deny she herself possesses? If the General Government cannot erect toll-gates, can she authorize the erection of them by the States? And conceding, as I do, her right to preserve, by the exercise of her own sovereignty, that which she has created, yet she cannot, by any forced construction of the compact with Ohio, transfer this road, or divest herself of its proprietorship, by any legislative enactment.

While the Western world was almost a desert, you contracted, for a valuable consideration, to connect it with the Atlantic border, by making, regulating, and constructing a highway, that should create an identity of interests, by facilitating intercourse; and the obligation to preserve it, for the full attainment of all the objects designed by its construction, is binding on all succeeding generations. If you can now transfer it to a State or States, you could, with equal propriety, have destroyed it within a month after you had complied with the letter of your compact, by its construction. So long as this Union shall endure—and may Heaven grant it perpetuity!—so long are these United States bound, by the spirit of their compact, by every principle of morality and good faith, by self-interest, which has its influence in the councils of the nation as well as in the breasts of individuals, to preserve this object of general interest—the common property of the Republic—which they cannot divest themselves of, and which they ought not, if they could. Wherein consists the difference between exacting light money and tolls on a highway? Will it be con-

tended that, because a ship is borne on the wide expanse of the Atlantic Ocean, without the limits of any individual State, the General Government has exclusive jurisdiction?

It must be recollected that four-fifths of all our lighthouses are erected in our bays, and sounds, and rivers, and within the limits of the States; consequently the cases are precisely parallel, and the former right having always been fully conceded, with what propriety can the latter be denied? The Government being bound, in good faith, to keep up the road, it is but reasonable that they who enjoy the benefit of it, should contribute an indemnity adequate to the injury sustained by the travel over it. He who passes to-day contemplates to return to-morrow; and it is his interest that it should be always kept in such a state of repair as to create the least possible delay, and enable him to carry the heaviest burdens; and as it must be sustained by a tax, the principles of equity and justice demand that the remotest sections of the Union should not be required to contribute to an improvement which affords to them no advantage; but that those who enjoy the benefit should bear the burden. Pennsylvania and Maryland by their respective laws, have invited you to erect toll-gates thereon. Through Virginia it passes but a few miles; and, were the assent of that State deemed necessary, she has displayed too much magnanimity in granting corporate privileges to citizens of other States to the right of her soil, to refuse it to these United States.

Mr. B. attached additional importance to the decision of the committee on this amendment, as to its effect on other improvements contemplated to be made out of the public funds. If it should succeed, it is not difficult to foretell the fate of the great national road from Washington to New Orleans, in the South, and to Buffalo, in the North. Congress will cease to entertain similar propositions of a national character, whenever it shall be solemnly decided that the roads, as soon as constructed, are to be ceded to the respective States through whose limits they pass, and thus the course of the republic be arrested in her march to the high destinies which await her. The bill, as reported, proposes to impart vitality to the road—a living principle which carries with it the means of self-preservation. It is a metaphysical refinement to suppose that the exercise of a power, by the General Government, within the limits, and by the assent, of a State, which, while it benefits her, does no injury to her sister States, can, by any fair construction, be deemed a violation of constitutional right.

TUESDAY, January 27.

Widow of John Paulding.

Mr. WARD submitted the following resolution:

*Resolved*, That the report on the memorial of

JANUARY, 1829.]

*Widow of John Paulding.*

[H. OF R.]

certain citizens of the county of West Chester, in the State of New York, heretofore presented to this House, praying for a pension to the widow of John Paulding, deceased, one of the captors of Andre, be re-committed to the Committee on Military Pensions.

In support of his resolution, Mr. WARD said that, having made the motion from a sense of duty, he was constrained, by the same principle, to make a few explanatory remarks upon the circumstances of the case. Sir, (said Mr. W.) the petition that I am now desirous should be re-committed to the Committee on Revolutionary Pensions, I had the honor to submit to this House at its last session, which was then referred to that committee, and upon which the committee made an unfavorable report. It was my intention, sir, to have proposed an amendment, in favor of this widow, to the bill reported for the relief of certain surviving officers and soldiers of the Revolution, and which yet remains to be acted upon: but I felt it to be my duty, in the first place, to consult with the honorable gentleman at the head of that committee, upon the subject, and he advised me to pursue the course I have now adopted. It will be seen, sir, that this resolution does not instruct the committee to bring in a bill; nevertheless it is my wish that gentlemen who are in favor of granting the prayer of the petitioner, should vote in favor of it, and that those who are opposed to it, will vote against it; because we have now but thirty days left in this session upon which we can transact business; and if the House was opposed to this application, I am not desirous of troubling the committee again with this matter. I would observe that the petition sets forth that John Paulding, who was one of the captors of Major Andre, died several years since, leaving a widow in indigent circumstances, with twenty children, five of whom are minors, and that they pray that the pension which was granted to him during his life, may be given to his widow.

It is well known to every gentleman of this House that, in the Autumn of 1780, when our military affairs in every quarter were in a worse condition than they had ever been in since the beginning of the war of the Revolution—if we except the latter part of the year 1776—and when dismay and almost despair had paralyzed the energies of our country; and at a time too, when Washington was absent from the camp on official duties, and when our Army was dwindled to a few thousand efficient men, that Arnold, in brooding over his imaginary wrongs and neglects, from a spirit of resentment and avarice, committed an act of treason—not a simple act of treason, by deserting his own standard and flying from his own post, but an act of treason pregnant with the most awful consequences, such as involved the lives of his whole army and the fate of his country together.

The success of his plan would have been a

death blow to the hopes of America. Arnold had been, for a long time, laying his plans and searing his conscience. The British, after many hints and suggestions from him, understood their man, and Major Andre was sent to West Point to negotiate the business of the surrender of this stronghold. The work, as far as compact could make it, was accomplished. The British spy was returning to his headquarters, flushed with the success of his diplomacy, when he was taken by John Paulding and his associates, three plain honest yeomen of the county of West Chester, citizen soldiers, without wealth or office. The prisoner offered them bribes of great magnitude to release him, and named himself as a hostage until those stipulations were complied with, and his ransom was forthcoming. They did not listen to him, although they would not doubt his word, nor the ability of his general to pay the ransom, but rejected his offers, and marched him, forthwith, to the nearest post of the American army, and gave him up to the commanding officer, and felt happy in the discharge of their duty. The country was astonished and confounded at this act of treason, and officers and soldiers started forth to avenge it; but, while words of indignation were on every tongue at the very name of Arnold, those of commendation and gratitude to these captors were commingled with them.

Congress felt satisfied with the patriotism of these men, and expressed a sense of gratitude to them by voting to send medals to the Commander-in-Chief, to be presented to them; and with the scanty means then in the power of the nation voted also to pension them for life. A dollar then, as our country was situated, was worth a hundred now: for at the time when this was done the Treasury was nearly bankrupt, and soldiers half naked and half starved were paid in depreciated paper. Yet, such was then thought to be the magnitude of the services of Paulding and his associates, that there was no question about the course to be pursued in rewarding such inflexible honesty. The army, who knew what was honorable in citizen soldiers, hailed with delight this act of justice in Congress, and not a murmur was heard among the people, who were then ground to the earth by taxes and requisitions to support the war. The soldiers did not think the country bountiful, or hardly just, to those men, for such important services. Besides these honors, an ample page was given to this incident in the annals of our Revolutionary conflict; and the biographers and historians gave the names of John Paulding, Isaac Van Wart, and David Williams, to future ages, as men in the common walks of life, who were above the influence of a bribe—men who maintained Spartan integrity in the midst of corruption, espionage, treachery, and treason. The story was told on both sides of the Atlantic in nearly the same words: and the enemy, while he deplored the loss he had sustained, never denied these men the virtue of

stern honesty. Two of these men, Paulding, and Van Wart, resided in the county I have the honor to represent, and I can speak of them from personal knowledge. They supported through life an unsullied reputation. Their fame was never tarnished; they were respected by the whole living neighborhood, and honored with civic honors when dead; and the corporation of the city of New York reared a monument to the memory of Paulding, in gratitude for his services.

And now, sir, what is it that the petitioners ask? For it must be remembered that it is not the petition of the widow and orphans of John Paulding for a large sum of money, to give them affluence and ease; no—but it is the petition of the inhabitants of West Chester county, their neighbors, who are acquainted with their indigent circumstances, and also with the merits of the deceased, soliciting only a humble pittance to save a sinking widow and a bereaved family from penury and want. It may be said that hundreds of meritorious officers and soldiers, who faithfully discharged their duty, have died without a just compensation for their services and sufferings. This is a painful truth, which I deplore, not deny; but I think it no argument against the prayer of this petition. Shall we be hardened against humane and generous acts to one, because justice cannot be shown to all? Shall we deny justice to the living, because we neglected to do it to some who are now beyond the reach of it? This argument was strongly urged, last session, on the bill for making some compensation to the surviving officers of the Revolution who come under certain clauses, yet, thank God, it had but little effect on the good sense of this House. A great portion of the original number of those entitled to this compensation were in their graves; they had fallen like the autumnal leaves, and sunk into the bosom of their mother earth, unnoticed and unknown. Several of them died while we were lingering on with the debate upon the bill; yet was this a reason why the survivors should be neglected, and fall into their graves in the same forlorn state as their comrades in arms? This bill gave more satisfaction in every part of the country that I have heard from, than all the other doings of Congress for the session. The people have always approved, heart and soul, of every thing done for the benefit of the old soldiers. And even those Revolutionary worthies to whom none of the nation's bounty, as we call it, came, never were known to repine at the good fortune of others, although they justly, in many cases, complain of their not being taken care of themselves. So far as it relates to myself, I would not only cheerfully vote for a bill to provide for those who yet remain to be provided for—I mean the militia who served in that war—but for the widows of all our soldiers of the Revolution.

Let us look for a moment and see what has been done for the other actors in this drama—

the traitor and the spy, who figured largely in this business. The traitor, although his plan entirely failed of success, received his promised reward to the very letter of the contract. The ten thousand pounds were paid down; the commission rank of Brigadier General was instantly given him, his family were at once put under the protection and patronage of the British Government, and his children are at this day men of considerable standing and wealth in the Canadas. The British Government fulfilled every part of this base contract, even to doing all they could to make him a man of consequence; but there were hearts among our enemies too noble to yield their confidence to a traitor. As regards the spy, it is true that he was insensible to honors, for he slept under the tree where he was executed; but his Government pensioned his mother and sisters, and some of them survive to enjoy the royal bounty until this day. A cenotaph was erected to his memory in Westminster Abbey, among the monuments of the great and wise of his nation, who had gone to their long rest in honor and virtuous praise. This was not all. After the lapse of nearly forty-five years, his bones were even unearthed by a royal mandate, and carried to his native land, and placed in consecrated ground. They thought he died in a good cause, and were not content that his ashes should remain in an ignominious grave. I complain not of this: for his country, as well as other countries, had a right to pass in judgment upon the merits of their heroes, or martyrs, or soldiers, and to decide as they please.

I state these facts not to injure the fame of Andre, for he took his life in his hand, and forfeited it, and was punished by the death all nations have prescribed for his offence. Justice was satisfied, and so should all be: what I complain of is, that, while listening to monodies upon Andre, and keeping up our sympathies with every act of his nation, in regard to his family or fame, that we forget the merits of his captors, and something more than forget them—even question the purity of their motives, and undervalue their services, and cloud their fame with suspicions. This at once is robbing the dead, and piercing to the heart their descendants, who had no other inheritance left them but the reputation of their ancestors. If these men had acted for gain, how widely did they misjudge: for the ransom of their prisoner would have been five times as much at the moment as they have received during the whole of their lives, and an annuity might easily have been added: for such things require no debate in Parliament. A reward for delivering him to the British would have been certain, and no doubt, splendid. What they might possibly gain from Congress, was distant and uncertain: for, sir, neither these men, nor the wisest of the sages of the Revolution, could predict at that time what would have been the probable result of the more than doubtful contest in which they were engaged.

JANUARY, 1829.]

*Cumberland Road.*

[H. OF R.]

They were true to their country; to the cause of liberty; and deserved ample rewards.

Mr. BRENT inquired of the Chair if it was in order to refer petitions by a resolution.

The SPEAKER replied that it was not.

Mr. WARD then modified his resolution so as to make it read, "report of the Committee on Revolutionary Pensions;" and, being thus amended, it was adopted.

*Cumberland Road.*

On motion of Mr. MERCE, the House went into Committee of the Whole, and took up the bill for the preservation and repair of the Cumberland road.

Mr. ANDERSON, of Pennsylvania, took the floor, and said, as it was his intention to vote against the amendment under consideration and in favor of the bill, he would ask the indulgence of the committee while he stated very briefly some of the reasons which had led him to that conclusion. On the constitutional question, of the power of Congress to appropriate a part of the national resources to objects of Internal Improvement, he should say but little. I have understood (said Mr. A.) that the question was considered as definitively settled and put to rest, and I certainly have no desire to provoke a discussion of it on the present occasion. As it appears to me, however, to be, in some measure, involved in the subject under consideration, I will take the liberty of making a few remarks, by way of introduction to what I intend saying hereafter. I never had any scruples of the existence of such a power in the General Government. The language of the constitution is too plain and intelligible to be misunderstood. I apprehend it would be difficult to discover any ambiguity in its meaning. To doubt the right of Congress to make appropriations for purposes of Internal Improvement, appears to me to be about as reasonable as it would be to doubt their right to appropriate a part of the revenue to the payment of the national debt, or to any other purpose. To be adequate to any great national purpose of providing for the general welfare, it was necessary that this power should be untrammelled by restrictions or reservations that might lessen its efficiency. It was equally as impossible for the convention to foresee what state of things the fluctuating tide of events might develop, in the course of half a century, as it is for us to foresee what another half century may unfold to posterity. It was all-important, therefore, that Congress should be clothed with a power fully competent to provide for every possible emergency. It is a national power, created for national purposes, and, of necessity, should be lodged in the General Government, by which it can be most promptly and most efficiently applied. I apprehend it would have been a very doubtful, if not a dangerous policy, to have confided to the States, in their separate capacity, the performance of a duty so important as that of providing for the general wel-

fare. It is a duty which properly and necessarily appertains to Congress to perform. If, then, it is admitted to be the special province of Congress to provide for the general welfare, the existence of a power adequate to the fulfilment of that duty, and their right to exercise it, can no longer be a matter of doubt. It is contended, however, that this power, which has been emphatically called the *making* power, does not involve the *preserving* power; that the power to make turnpike roads does not involve a power to erect gates and collect tolls, for their preservation; that they are distinct powers, between which there is no connection; that the power to preserve is not an attribute of the making power. This (said Mr. A.) is the first time I have ever heard such a doctrine seriously advocated. I have always supposed that the power to provide for the repair and preservation of a public work, and the power to construct it, were so closely united, and so intimately blended, as to be inseparable; that the one was an essential attribute and concomitant of the other. Will it be said that the power to build forts, arsenals, and ships of war, does not involve a power to provide the means of keeping them in repair? Every man in the community knows that they are indispensably necessary for the common defence, and for the protection of our commerce. The power to appropriate money for their preservation is universally admitted. Annual appropriations are made for that purpose, without opposition. In relation to these objects, the power to make, and the power to preserve, are necessarily indivisible. The efficiency of the one would be, in a great measure, destroyed, if deprived of the other. If, then, it is conceded that the power granted to Congress, to provide for the general welfare, involves a power to make turnpike roads, it is manifestly clear that they possess a power to provide the ways and means of keeping them in repair.

Mr. STEWART expressed his regret that gentlemen had deemed this a fit occasion to draw into discussion all the topics connected with the general power over the subject of internal improvements. If repeated decisions, and the uniform practice of the Government, could settle any question, this, he thought, ought to be regarded as settled. The foundation of this road was laid by a report made by Mr. Giles, the present Governor of Virginia, in 1802, and was sanctioned, the next session, by a similar report, made by another distinguished Virginian, (Mr. RANDOLPH,) now a member of this House. It was, therefore, the offspring of Virginia, and he hoped she would not now abandon it, as illegitimate. Commenced under the administration of Mr. Jefferson, it had been sanctioned and prosecuted by every President, and by almost every Congress, for more than a quarter of a century. It had cost more than two millions of dollars, and was worth much more than it had cost. Its benefits were incalculable. Important as this road was, as a me-

dium of communication, and as a bond of union between the Atlantic and Western States; important as it was, to the nation, in connection with its mail, military, and commercial operations; no permanent system had yet been adopted for its preservation and repair. This road had already passed through three States, and was in progress through three others. A portion of it had been in constant use, for fifteen or sixteen years, yet the whole amount appropriated for its repair had not been sufficient to put one inch of stone on its entire surface. No road in the world, he contended, had ever sustained itself so long, with so little repair. This fact, alone, furnished a triumphant refutation of the charge of want of fidelity and skill in its original construction.

This road was now in a state of rapid decay, and almost rapid dilapidation. "Something must be done speedily, or both the road and the money it had cost would be lost to the nation. The impossibility of obtaining annual appropriations had induced the Committee of Roads and Canals to report the bill under discussion, which required those who used the road to pay for its repair. This was not to be a tax for purposes of revenue, as had been alleged; but a voluntary contribution, paid by travellers, barely sufficient to repair the injury they did to the road by using it; it was not a tax in the constitutional sense, no more than the postage paid on letters, or the money paid by vessels passing lighthouses on the seacoast. The power that sanctioned the one, sustained and supported the other.

Mr. S. laid it down, as a general principle, that the power of creation carried with it, as a necessary and inseparable incident, the power of preservation. This could not be controverted; and, hence, gentlemen opposed to the bill were under the necessity of denying the power of the Government to construct the road. This they had done, and thus brought under discussion the whole question of power, in all its aspects. His colleague, (Mr. BUCHANAN,) who had opened the debate on this subject, seemed to regard the bill with more alarm than the people of the South did the tariff. He had denounced it as a most daring and dangerous usurpation of power; as tending directly to consolidation or separation; as even worse than the sedition law; as alike destructive to the rights of the States, and the liberties of the people. He had, indeed, conjured up a most frightful picture. He had, himself, called it a "spectre." True—but it was one of his own creation. A "spectre" at which, he says, even the Federalism of former days would have "shrunk back with horror." He had, therefore, felt it his duty to sound the tocsin of alarm; he had exhorted the friends of State Rights to rally their forces; he had appealed to Virginia, whose voice, he said, had awakened some of her slumbering sisters, and kept alive the wholesome doctrine of State Rights; and of this school, he, too, it seems, had become a

sudden, and, of course, a zealous disciple. He had, however, taken but one step—he must take another, and that was, to deny, also, the constitutionality of the tariff. This he might do at the next session; and then, and not till then, could he be admitted into full communion. He must go the whole, and even that would not restore him to favor.

The gentleman has, in fact, distinctly informed us, in his speech, that the politicians of this country are hereafter to be divided into two great parties: the one in favor of "Federal power, and the other wedded to State Rights;" in other words, those who advocate, and those who deny, the power of this Government to protect domestic manufactures and promote internal improvements. These are the subjects, and the only subjects, over which the power of this Government is now warmly resisted. These were the great points of controversy, and he agreed with his colleague, that every man must take his stand, on the one side or the other. The issue was made up. These measures must be abandoned or sustained. The power exists, or it does not: there was no half way course. If it existed in the one case, it existed in the other; they were kindred measures, and, in his opinion, would stand or fall together. After the public debt is paid, which must occur in a very few years, Why, you will be asked, impose a tariff of duties, when there is no object on which you can expend the revenue? These subjects were inseparably connected; they constituted one system of policy; it was against this system that the party "wedded to State Rights" were directing their efforts, and it was this system that its friends were now called upon to defend and uphold.

Mr. S. appealed to the Representatives of the Interior and the West. Without internal improvements, he inquired what they were ever to expect from the expenditures of this Government. They must bear their full share of the public burdens, pay their full share of the public revenue, without the possibility of participating in its benefits—the whole would go to the seaboard. In the Interior, and the West, they had no fortifications, no ships and navies, no sea walls, dockyards, lighthouses, buoys, and beacons. He affirmed, without fear of contradiction, that, from the foundation of the Government, to the present time, the whole civil expenditures of the Government, for all purposes, except internal improvements, in the whole Union, twenty miles from the tides of the ocean, had not been equal to the expenditures on a single fortification! Deplorable, indeed, must be their condition, without this power; it amounted to a positive exclusion of the Interior and the West from all participation in the benefits of the public expenditure. Their wealth, it was true, like their vast rivers, would continue to flow in uniform and never-ceasing streams to the ocean, bearing to it their ample contributions; but, by destroying this power, you blot out forever that sun, which alone

JANUARY, 1829.]

Cumberland Road.

[H. OF R.]

could take up a portion of this great deep, and return it in copious and refreshing showers over the vast region from which it was drawn, invigorating and replenishing the numberless fountains from which it originally flowed.

WEDNESDAY, JANUARY 28.

Cumberland Road.

The House again went into Committee of the Whole upon the state of the Union, and resumed the consideration of the Cumberland road bill.

Mr. SMITH, of Indiana, said: Is it necessary that Congress should adopt any measures for the permanent repair and preservation of the Cumberland road? If so, does the bill, as reported, provide for such repairs and preservation? And, if the bill is liable to objections, is the amendment the less so? So far as I have heard the argument, these questions have divided themselves into two general heads—I mean those of constitutionality and expediency; or, in other words, is the proposition contained in the bill constitutional? Is it expedient? The same questions arise on the amendment. This subject, and the answers to these questions, are not new to me; they are not new to the people whom I represent; they present no new question here. For myself, I confess that I have thought much upon this subject—not for the purpose of making a speech here; not merely since I have been a member of Congress; no, sir, in my own house, at my own fireside, at times when I could view the whole ground coolly and dispassionately; when the gaze of such an august body as this, which is almost enough to drive from the mind of so young a speaker as I am, the ideas which he intends to bring into the discussion, was not upon me. At times like these, sir, I have formed an opinion for myself on this all-important question; and that opinion it will be my object to communicate to this committee, as distinctly and intelligibly as I can, as it is upon that opinion, and the reasons which have operated on my mind, in its formation, that I must rely, before my constituents and the world, for the correctness of the vote which I am about to give on this question.

Then, sir, I have no doubt but that Congress is vested with plenary powers, by the Constitution of the United States, to construct roads and canals of a national character. I do not wish to be understood as saying, that the United States possess the power to construct either roads or canals which are local or sectional in their character. The question which these two propositions would present, have little or no affinity with each other. This Government is only vested with power to operate on objects strictly national in their character. Sectional or local objects do not come within the sphere of her operations; they fall within the exclusive control of the State Governments in which they are constructed. In this restric-

tive sense I wish to be understood as contending for the power of Congress, under the constitution, to construct roads and canals.

So far as principle is involved, the amendment presents quite as strong a question of constitutional power as the original bill; indeed, it may well be questioned, whether the amendment does not go one step farther than the bill as reported. The bill proposes to put the road in repair, and then to collect a toll barely sufficient to keep it in repair. The amendment proposes to put the road in a like repair, and then provides that the United States shall cede the road to the different States in which it lies, upon the condition that the States, by a given day, shall accept of the cession, with a restriction annexed that they shall never collect more toll on this road than will be sufficient to keep it in repair. What, then, does this amendment assume? It assumes, first, that Congress has the power to take the materials necessary for the repair of this road, and to enter upon it, and repair it; secondly, that the road, when repaired, is the property of the United States; thirdly, that the Congress of the United States can constitutionally cede the property of the United States in this road to the several States in which it lies; and lastly, that we have the power to impose restrictions on the legislation of the States on the subject; for we cannot repair this road unless we can constitutionally use the means; we cannot cede this road unless it is our property; we cannot impose restrictions on the legislation of the States, in relation to this road, unless it is subject to our jurisdiction and control. The bill assumes no more—nay, it does not assume so much: the one provides that Congress shall keep the road in repair, by erecting the gates and collecting toll sufficient for that purpose; the other provides that the gates shall be erected by the States, and a toll collected, under restrictions imposed by Congress. Now, sir, what is the difference? Will not the maxim, *qui facit per alium facit per se*, apply to this case with some propriety? It seems to me to amount to about the same thing either way, so far as the erection of the gates and the collection of toll is concerned, except as to the laws under which the tolls are to be collected. Of this exception I shall have occasion to speak hereafter; and I should like the gentleman to show me the section of the constitution under which he proposes to cede this road to, and impose the restriction on, the States. There may be such a clause in that instrument, but I confess it has escaped my observation. I have now, I presume, said enough to let the committee know that I am in favor of the bill, as reported, and against the amendment.

I listened with pleasure to the speech of the gentleman from Virginia, (Mr. P. P. BARBOUR,) delivered on this question a few days since, as I do to all that gentleman says in debate; and while I acknowledge the great powers of his mind, and the ingenuity of his arguments, I



must most decidedly dissent from his doctrines. His premises, too, are professedly the provisions of the constitution; but I hope to be able to show that his arguments are founded in error, in respect to the powers given by the constitution to Congress, and the object of conferring those powers. This will make it necessary for me to take a cursory view of the formation of this Government and its powers, prior to the adoption of the federal constitution. It will be recollected by gentlemen, that the thirteen original States were bound together by the Articles of Confederation. This was emphatically a union of States. The States who had thus entered into this league or confederation retained all their rights, their sovereignty, and their exclusive jurisdiction in their own hands. The Congress of the United States acted upon those States as so many sovereign corporations, and not upon the people. When it became necessary to raise an army for the common defence, Congress could fix the just quota that each State should send to the field, and could request the States to comply with the requisition. Was it necessary to collect money from the people to support the army, carry on the war, and defray the expenses of Government, Congress could apportion the sum that each State should contribute to the common stock, and make a request that the States should furnish the amount. If these requests were thought expedient, and no constitutional scruples should suggest themselves to the State Legislatures, they were complied with; but, should the States, or any one of them, not comply, what was the consequence? Congress, under the Articles of Confederation, had no power, by civil means, to coerce a compliance: nothing short of a resort to the sword—to civil war, with all its awful consequences—could hope to procure a submission on the part of the State. Thus, the Confederation was not only weak and powerless, but it contained within itself the seeds of civil war, and its own dissolution, and with them the destruction of the lives and liberties of those citizens who had taken shelter under its rotten branches, from the storms of the revolution. The sages and patriots of the age saw, with feelings of the deepest regret and anguish, that the Government, as then organized, must be dissolved; that it could not exist; and that, in its dissolution, must be engulfed all the fair prospects of liberty and happiness, which had buoyed up their spirits under the privations and dangers of the revolution. Thus was this republic situated, when a large majority of the patriotic citizens of the day resolved on changing the whole form of the Government. This brings me, sir, to the federal constitution, of which it is my purpose now to speak: for it is by that chart we are now to navigate these political seas. Old things are done away, and all things have become new; doctrines like those which have been urged upon us by the gentleman from Virginia, (Mr. P. P. BARBOUR,) and all

other gentlemen of the same school, have no application to the Government and its powers, as renovated by the adoption of the constitution.

Having shown the committee, briefly, some of the many objections to the old Articles of Confederation, I shall now turn to the constitution, the very first words in which are strongly marked with the change which had taken place in the Government. The preamble to that instrument, which unfolds the reasons that called for the change in the Government, reads: "We, the people of the United States, in order to form a more perfect union, to establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America." Not we, the States, "in order to form a more perfect union;" no, sir, a union of States exclusively, as such, was the very evil in their form of Government that they were attempting to remedy. Such a union could not have been more perfect than it was under the Articles of Confederation; the people had tried it, and it was found altogether incompetent to "establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and procure the blessings of liberty to ourselves and our posterity." The very preamble, then, clearly contemplates a dissolution of exclusive State bonds, and the creation of a closer union of the people. Was it not remarkable, that those old sages and heroes, who had fought the good fight in times that tried men's souls, should not have been alarmed at the idea of letting the people become more closely united? Was there no voice then to raise the cry of State rights—of bleeding State rights? Was there no philanthropist or statesman in those days to warn the people against adopting such political heresies as were contained in this preamble? Yes, there were, in those days, such men as these; they represented, in glowing colors, the same—yes, the very same doctrines that are now contended for on this floor. They contended that the States had much better continue under the Articles of Confederation, than for the people to adopt a federal constitution, with such tremendous powers as to authorize Congress "to provide for the common defence and the general welfare;" but all to no purpose. It was believed that the people were capable of self-government; that they would be more likely to act together for the public good, than to destroy each other without inducement. It was believed that a Government, to do good, and to "promote the general welfare," must have the power to act. The convention said so; the people said so; and the unparalleled prosperity of the United States, under the exercise of this power, enters a *caveat* against the confederation doctrines of the gentleman from Virginia: for such, sir, I certainly consider them.

JANUARY, 1829.]

*Cumberland Road.*

[H. OF R.]

THURSDAY, JANUARY 29.

*Cumberland Road.*

The House went into Committee of the Whole on the bill for the preservation and repair of the Cumberland road.

Mr. BUCKNER said: Should the proposed amendment prevail, not only would the superintendence and control of the General Government be withdrawn from it, but it could not fail to be considered as the commencement of the prostration and abandonment, by the Federal Government, of the whole system of internal improvements. The adoption of the amendment could be justified on the ground only of a want of power in the Government to protect and control what, it had been acknowledged by a large majority of every Congress, for many years past, she had a right to construct. He could not, therefore, justify himself to his constituents (especially as but one other gentleman from the West had raised his voice in argument against it) to permit the vote to be taken upon it without manifesting his decided opposition to the amendment, and explaining the grounds of his opposition.

Why, said Mr. B., should we confide to the management of Pennsylvania, Maryland, and Virginia, a duty which we could as conveniently attend to as they could, and which, if we possessed the power, we ought to perform? Those States might faithfully discharge any promise made, or engagement entered into, on the subject, however plain it may be that such promise would be utterly invalid, in a legal or constitutional point of view. It was not his intention to insinuate they would not. He should attempt to draw no invidious distinctions between States. It was sufficient for his purpose that no such contract would be obligatory on a State. In case of failure, we had no means of forcing compliance, and any attempt at coercion would not only be an unauthorized assumption of power, but could not fail to lead to the most unhappy collisions, and the most calamitous consequences. If we cede to those States, we must do the same to Ohio, Indiana, &c., as to those portions of the road which have been, or may be hereafter, constructed in those States.

If any one of them failed to keep the road in the state of preservation contemplated, the same difficulties would present themselves, as if all should fail. Let us not flatter ourselves that such an event could not occur, and need not be guarded against. In this age of political wonders, nothing should surprise us. Who, when the public lands were solemnly pledged for the payment of the national debt, could have supposed the period was so near at hand when not only a State, in which some of those lands are situated, would deny to this Government any valid title to them, but, when such a doctrine would become so prevalent in different States, that the political prospects of as-

pirants to office were made to depend upon their urging the propriety of their seizure by the States; and when politicians in this House, of deservedly high standing, would look upon it as expedient to enter gravely into the inquiry, whether our title to them was valid?

Whence, asked Mr. B., could this strange infatuation proceed? Was it not the unhappy result of the same mistaken notions of "State rights," which had suggested the proposed cession of this great national road to the States through which it is conducted? No one could be more devoted to State rights than he was; but Federal rights were not less dear to him. He could not say, in speaking of them, "not that he loved the one less, but that he loved the other more." So intimately were they connected, so absolutely dependent on each other, that, destroy the one, and you thereby destroy the other. The sun which rises, mourning the annihilation of the latter, may shroud itself in the darkness of disconsolate grief, for the inevitable and rapidly approaching loss of the former. He would not use the language of a celebrated politician in England, who said, "whenever he heard of the word 'rights,' he had learned to consider it as preparatory to some desolating doctrine," because it was the language of tyranny; but he rejoiced that he had learned to love not only the constitution of his State, but of the General Government; and to regard the rights secured by each as equally sacred and inviolable. If, then, when a man told him he was devoted to State rights, he meant that he wished to preserve unimpaired the constitutional powers of the State Governments, he approved his judgment and honored his patriotism. But if, thereby, he signified his disposition to weaken or resist the constitutional exercise of Federal power, he deprecated his motives and abhorred his doctrines.

He knew it was difficult so to define the powers of each Government as on all occasions to avoid apparent confusions. It was proper that each should be administered in a spirit of mutual forbearance, and with the kindest feelings of mutual confidence. We should indulge in no jealousy; no, not even in what had been termed a wholesome jealousy. Such a devotion to State rights, and such a jealousy of Federal rights, might be very properly considered as "preparatory to some desolating doctrine; to some wide-spread ruin." Its direct tendency was to dismember the States, to sever the Union—a Union which the patriots of other days, of days gone, he feared never to return, had fondly anticipated would effect for us in a political, what faith does in a religious view, everlasting salvation. It destroyed the confidence of the people in the wisdom of their Government; it led to angry contentions, to bloodshed, to civil war, with all its hideous and desolating consequences.

Let us then, said Mr. B., inquire into the nature of our Governments, Federal and State, and define, as far as we can, their respective

powers, taking care, as we proceed, to affix definite significations to the terms employed: for he apprehended it was to an omission to do this—to the loose, undefined, and variant meanings in which many expressions in common use in such arguments had been employed, or, perhaps, not unfrequently to the fact of their being used without any meaning at all, that much of the supposed difficulty on this subject originated. The expressions "eminent domain," "jurisdiction attaching to soil," "concurrent jurisdiction," "State sovereignty," "the absurdity of considering the incidental power as greater than the one from which it is deduced," as generally used in arguments on this subject, might serve to round off a sentence, or fill up a speech, but they cast no light on the question. If it be not mere jargon, let those who use them inform us what they mean, and how they apply them.

What, then, said Mr. B., is the nature of the Federal Government? It was one of delegated and limited authority. It could act but in pursuance of the authority vested in it under the constitution. "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." After the enumeration of various powers with which Congress is clothed, it is declared that it shall also have power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the Government of the United States, or in any department or officer thereof." Speaking, then, of the relation in which it stands connected with the State Governments, it was not sovereign. It was to be sure sovereign, or supreme, which he should use as synonymous terms, respecting all such matters as had, by the constitution, been confided to its management. It was absolutely necessary to its preservation it should be so. It could not have survived its formation five years without such power. God grant it may be preserved with it. He had always viewed the danger resulting from a heedless and unwarrantable resistance of it, on the part of the States, and a consequent dissolution of the Union, as more imminent than any proceeding from an attempt at encroachment by the Federal authorities.

Are the States then sovereign? But for the Federal constitution, each State would have been sovereign in the most unlimited sense of the word. Each one might have abolished, altered, or reformed its Government in any manner the people might have thought proper; which it could not now do: for "the United States shall guarantee to every State in this Union, a republican form of Government." It might, in fine, have done any and every thing within its territorial limits, or in relation to foreign Governments, which, by the constitution, had been confided to the General Government. So far, however, as they have vested a

portion of the power, which, otherwise, they would have possessed, in this Government, or have, by the constitution, been expressly prohibited from exercising it, they are not sovereign, because there are many matters which belong to sovereign power which they could not control even within their territorial limits. See, for example, 1st article, 10th section, of the constitution. Yet the people of the United States are free. They possess sovereign power. The power is lodged in the hands, not of the Federal Government, but of the Federal and State Governments. Taken in one combined view, they might be considered as a great, splendid, and complicated machine; yet, so skilfully and judiciously arranged, its powers so nicely balanced, that we might, with much greater propriety, apply to it the eulogium pronounced by a distinguished individual upon another Government, who said "it was the most stupendous fabric of human invention."

If this view, said Mr. B., of the nature of those Governments be correct, and surely none could deny it, he would proceed to examine what gentlemen meant by saying that jurisdiction always attaches to soil; and also to examine why it did so attach. "Jurisdiction," when applied to courts, was not used in the same sense as when applied to a Government. In the first case, it meant the authority conferred by law on the courts to adjudicate in relation to particular matters: in the latter, it signified the power or authority of the Government, and sometimes the tract of country over which such authority extends. Thus, we say that such a matter originated within the jurisdiction of the United States; that is, within the territory over which she exercises a lawful and constitutional authority. In other Governments, where there is no *imperium in imperio*, as here, whatever controversy is to be decided, or act to be performed, respecting either persons or property, must necessarily be subject to the control of the Government within whose territory the controversy is to be decided, or the persons and property are located. As no other Government had a right to interfere, the jurisdiction was said to attach to the soil: jurisdiction attached to the soil here also. But whether the subject was one which was placed under the power or jurisdiction of the General or State Government, must, in every case, depend upon the provisions of the constitution. To it we must look as the source of information. If, on such examination, it should be found to belong to the latter, say Virginia, the jurisdiction attached to the soil, because Virginia, not Pennsylvania, nor any other State, had a right to act in relation to it: if to the General Government, jurisdiction still attached to the soil, because the United States, not Great Britain nor France, had a right to act respecting it. As to any supposed concurrence of jurisdiction, he did not know it would throw any light on this subject, to enter into an examination of it. He might, perhaps, be-

JANUARY, 1829.]

*Lotteries in the City of Washington.*

[H. OF R.]

fore he closed his observations, make a few remarks concerning it.

Mr. B. said he had already urged, and he had the constitution as his authority for saying so, that no State could, without the consent of Congress, enter into any agreement or compact with another State. In like manner, and with equal propriety, it might be insisted, the General Government could derive no power from the consent of a State, except in the cases pointed out in the constitution. In the District of Columbia, and such other places as had been, or might hereafter be, purchased by the consent of the Legislature of a State, within which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings, we were authorized to exercise exclusive legislation. There no State could interpose its authority to control the most unimportant matter, however disconnected it might seem to be from the interests of the Federal Government. But had there been no such provision in the constitution, as to the power of exclusive legislation, it would by no means be true that the Government would have been without power to appropriate to its use land sufficient to execute its legitimate objects in relation to those matters. If so, other important and necessary powers, expressly granted, would have been entirely inadequate, if not altogether unavailing. It is well worthy of observation here, that, in this clause, the power is not given, in express terms, to the General Government, to appropriate to itself such property for the objects pointed out. Such authority would have been properly and clearly deduced from other parts of the constitution. But the power conferred is, "to exercise exclusive legislation" over such places, so obtained, with the consent of the States. But for this clause, we could have exercised no other authority than such as might be "necessary and proper for carrying into execution" other constitutional powers. We might have legislated concerning it, and our acts made in pursuance of the constitution would have been a part of the supreme law of the land; but our power of legislation would not have been exclusive; that is, the State in which the property might be located would have had the right to extend its legislation to every matter, even within the bounds of an arsenal, &c., which had not been confided to the management of the General Government. The distinction to legislate as to certain purposes, and to legislate exclusively, should not be lost sight of.

If there were any other cases in which the legislative power of the General Government could be enlarged by the consent of a State, he did not recollect them, and should be glad to have them pointed out. Surely our power to construct a road could not be made to depend upon the consent of the State through which it is proposed to be conducted. We cannot construct the road without first legislating on the subject. If the cases put were those only in

which the consent of a State could enlarge the legislative power of this Government, and legislation was necessary preparatory to the construction of a road, it followed, as an unavoidable conclusion, that, if we had a right to construct it at all, it must be deduced from some other source than such consent.

FRIDAY, January 30.

*Lotteries in the City of Washington.*

The bill to continue in force the provisions of "An act to authorize the Corporation of the City of Washington to draw Lotteries," came up in order.

Mr. WICKLIFFE briefly expressed himself in opposition to the principle of lottery taxation, as odious, immoral, and impolitic. He referred to some calculations which he had made from several lottery schemes published; but declined a full discussion of the subject. He concluded by demanding that the question be taken by yeas and nays.

Mr. SERGEANT said that he had made up his mind, long since, that the existence of lotteries was a great evil; and he had since had ample means of confirming that conclusion from facts and experience: so much so, that he could not consent to sanction any law for the establishment or the continuance of any lottery whatever. He did not affect to be more swayed by considerations of a moral kind than other gentlemen; although he did consider the question, even in that point of view, as well deserving of consideration. He thought the House might as well erect an establishment for public gambling in any other form; nay, better, for this was gambling of the very worst and most injurious kind. By a new contrivance in the drawing of lotteries, that operation is now performed with almost as much celerity as the dice are thrown, or a coin tossed up in the air. Lotteries thus drawn exhibit the most rapid and powerful kind of gambling now existing; and they present a temptation of fearful force and magnitude to the indulgence of what all will own to be an evil propensity—a propensity which no gentleman of this House would wish to encourage in any one that is dear to him; no gentleman who heard him would wish to see a child of his, or a servant or apprentice in whom he felt any interest, occupying his time in running after lotteries, and suffering that high and morbid excitement which always accompanies such a pursuit. So great was this temptation in its actual results on society, that in a thousand cases it has urged men to the commission of acts which brought them to a jail, if not to the gallows. Here Mr. S. adverted to one very affecting instance in illustration of this position. It was the case of an aged and highly respectable man of character, till then unblemished, and of such standing as to bring him into an office of great trust in a moneyed institution. In consequence of a defalcation in the funds, the gray hairs of this un-

happy man were brought down to the lowest state of ignominy by his being tried and convicted for purloining the money of the institution. It was found, on examining into the case, that all this amount of funds had gone to a lottery office. The man had been dealing in lottery tickets for a long time before, (in tickets authorized by law;) but, being unfortunate, he yielded in his despair to the force of a propensity which sometimes gets the mastery of the strongest minds, and which is sure to make an easy conquest over weak ones. Lotteries, he said, were springing up like mushrooms, or rather like the poisonous resemblance of mushrooms, which, having the same appearance, are nevertheless deadly to every one who eats of them. If any gentleman will go to the apartment where a lottery was drawing, he would see collected there a crowd of a description which would make his heart ache—a crowd consisting of persons, no one of whom ought to be there; persons who ought to be at home, pursuing some branch of honest industry—minors, apprentices, and idlers of every kind. There he would witness the intense excitement which gambling never fails to produce—he would there see how the appetite for such speculations is quickened till it becomes overpowering. Yet lotteries were at this hour organized by the United States to an extent of which gentlemen probably had little idea. He knew that, some time ago, a lottery was drawn on every Wednesday in the year. Now, the utmost proceeds of such a system were from five to ten per cent. of the amount invested; to be sure, there was generally a deduction allowed of fifteen per cent., but out of that all the expenses were to be paid, and a profit allowed to the contractor for the risk he takes. In some cases the profit was even less than five per cent. Thus, to raise a sum of five thousand dollars, the Government draws from the people, by one of the worst species of taxation, a contribution of one hundred thousand dollars. It was in his opinion the very worst and most pernicious species of taxation that ever was devised by the mind of man. Those only buy lottery tickets who ought not to buy them; who were in no circumstances to do so. The wealthy, the prudent, the prosperous, do not dabble in this kind of speculation. No, it is the ignorant, the needy, the weak, the inexperienced; persons so foolish as to see nothing before their view but the highest prize, and never consider that there are a hundred thousand chances to one against their obtaining it.

For his own part, if a sum is wanted by the Corporation of Washington, and the Government are disposed to grant it, he would rather give it to them at once, and then the whole mischief would be done; the Government would know the extent of it, whether larger or smaller. But when it sends abroad an unlimited permission to erect lottery offices, who can bound the evil? No man. On the whole, he was decidedly opposed to the bill, and was

happy to hear that the yeas and nays had been called, that he might have an opportunity of recording his vote against it.

Mr. INGERSOLL should rejoice entirely to exclude from the District of Columbia this species of gambling; and if such was the object of the gentlemen who opposed this bill, he would go with them heart and hand. But he had given his assent to the present bill merely on the ground that the Corporation of Washington had formerly had a similar grant made them, and in consequence of the defalcation of an individual had been losers to a large amount. Mr. I. dwelt on the venerable character of preceding legislators who had sanctioned this grant, and then stated the careful manner in which the present bill had been guarded. But still insisting on his disapproval of the principle of lotteries, he said he would, for the present, move to lay the bill on the table, in order that, if gentlemen chose to introduce a resolution on the subject of putting an end to all lottery-selling within the District, they might have an opportunity to do so. He then moved to lay the bill upon the table; but withdrew the motion at the request of

Mr. LITTLE, who moved to re-commit the bill, with instructions to introduce a bill to prohibit the sale of lottery tickets within the District of Columbia; which was carried *nem. con.*

#### TUESDAY, February 6. *Cumberland Road.*

The House again went into Committee of the Whole, and resumed the consideration of the bill for the preservation and repair of the Cumberland road.

Mr. MEEBOKER took the floor in defence of the bill, and in opposition to the amendment of Mr. BUCHANAN, (which goes to cede the road to the States in which it lies,) and having proceeded in his speech till near four o'clock, he gave way to a motion to adjourn.

#### WEDNESDAY, February 4. *Counting Electoral Votes.*

The resolution from the Senate, proposing the appointment of a Joint Committee "to ascertain and report a mode of examining the votes of the President and Vice President of the United States, and of notifying the persons elected of their election," was then called up, read, and adopted by the House. [See Senate Debates.]

#### SATURDAY, February 7. *Counting of Electoral Votes.*

Mr. P. P. BARBOUR, from the Joint Committee appointed to ascertain and report a mode of examining the votes for President and Vice President of the United States, reported, in part, the following resolution:

FEBRUARY, 1829.]

*Cumberland Road.*

[H. OF R.]

*Resolved*, That the two Houses shall assemble in the Chamber of the House of Representatives, on Wednesday, the 11th day of February, 1829, at 12 o'clock; that one person be appointed teller on the part of the Senate, and two persons be appointed tellers on the part of the House, to make a list of the votes for President and Vice President of the United States, as they shall be declared; that the result shall be delivered to the President of the Senate, who shall announce to the two Houses assembled as aforesaid, the state of the vote, and the persons elected, if it shall appear that a choice hath been made agreeably to the Constitution of the United States, which annunciation shall be deemed a sufficient declaration of the person or persons elected, and, together with a list of the votes, shall be entered on the journals of the two Houses.

This resolution was concurred in.

MONDAY, February 9.

*Cumberland Road.*

The House then again went into Committee of the Whole on the bill for the preservation and repair of the Cumberland road.

Mr. BARNARD said: I have heard it said that the attempt to sustain a power for this Government by resorting to several distinct portions of the constitution for that purpose, afforded very tolerable evidence that the power was not given at all. I agree that an attempt to hatch up a power can give but a very weak and unsatisfactory result. But I have never been able to conceive what solid objection there can be to finding a full and perfect authority for any single act of the Government, in half a dozen distinct clauses of the constitution, any more than I can imagine how the authority of an agent, on a particular service, could be weakened by having a double command for it from the same master. The loudest and fiercest objections which have been urged against the exercise of the power contemplated by this bill, have all proceeded on the ground that the making of the Cumberland road, as well as the measure now proposed for its preservation, could be justified only under what has been called the war power, or the commercial power, or the post-road power; and from these premises gentlemen have reasoned themselves into the belief (I shall not stop to inquire how justly) that, if the example of this bill be once set, the supremacy of authority in this Government will be irrevocably established, to the certain destruction of State sovereignty. And one or two gentlemen have seemed to look for the consummation of this state of things to the time when this Government, from making a single road of four rods wide through the corner of a State, shall come to put the whole area of that State under one broad, unbroken, and beautiful pavement—not for the convenience of the royal progresses which its functionaries may make through their dominions—not for the march of armies such as Xerxes led—but for the carriage of a letter-bag, by a post-boy,

VOL. X.—25

on horseback; or, at most, for the passage of a mail coach, drawn by four smart bays, and whipped up by a postilion, who is paid for his services at the rate of fifteen dollars for the month.

But besides the extravagances, not to say absurdities, into which a smart logician may easily run, on so vast a subject, there really are views of this subject which may be, and have been, presented, calculated to engender serious doubt. The subject of internal improvements, under this Government, is by no means free from difficulties. For one, I do not feel disposed to encounter them unnecessarily. I have, therefore, as will be seen in the sequel, chosen to rest my support of this bill on a source of power different from either of those which I have enumerated. And if I succeed half as well in convincing others as I have in satisfying myself, it may be that the scruples of some at least, who have not yet made up their minds to sustain a power in this Government for all the purposes of internal improvement, will be so far relieved as to enable them to vote for this bill. I regret that it has not been in my power, from circumstances which some around me know very well, to look into the debates formerly had in Congress on this subject. Had I done so, I might have found that all I propose to say had been long ago anticipated by some one much abler than myself; and that, therefore, instead of entering myself into this field of controversy, I might only have called the attention of the committee to some one who had already valiantly and successfully borne himself through it. I am encouraged, however, by the polite attention of the committee, to proceed, and I shall do so.

If the Government has the power to make an appropriation for the Cumberland road, and to provide for its preservation, as in this bill, I can see, I think, a strong necessity for the exercise of that power at this time. I am one of those who think that, to neglect the exercise of a power fairly belonging to the Government, whenever a necessary occasion for its exercise is presented, because of the doubts of individual politicians or of individual States, however loudly, or even angrily expressed, is just as dangerous a violation of the constitution as the assumption of unaccorded power.

The Speaker told us the other day, of centrifugal force and gravitation in our political planetary system; but he seemed only to fear that the planets might fall into the sun. God avert that experience should ever teach us how much danger there is that some of these immense bodies will fly off from their orbits, and either wander on alone to darkness and destruction, or, meeting each other in their erratic flight, produce a concussion to shake the whole system to its centre. This bill contains an appropriation for repairing and perfecting the Cumberland road, and also a provision for its permanent preservation. In the appropriation for present repairs is involved the power of the Govern-

ment to make that road; the remaining provision is thought by some to involve another and a new question of power—of a power never yet exercised by the Government. The power to construct the Cumberland road, as well as every other power which this Government can exercise, must be found in the constitution; and, if it is not there, it cannot be found anywhere. I confess it has struck me with surprise, when I have heard gentlemen, for whose talents and sagacity I have entertained the most profound respect, attempting to show how this Government derived, by a compact of its own making, the power to do that which the constitution itself had not authorized it to do. What would the old thirteen States of this Union have thought, when the constitution was presented to them for acceptance, had they found in it a clause to this effect: "In addition to the powers herein specially enumerated, Congress shall have power to do in the States whatsoever it shall hereafter, by compact with the people of the territories, agree to do?" And yet this is precisely what is claimed by those who deduce authority to construct the Cumberland road from a compact between the United States and the people of Ohio. This Government cannot acquire the right to violate the constitution by entering into a solemn engagement to that effect. It is fenced round on every side by that sacred instrument; and its paramount obligation is, to take from it all its lessons of wisdom for devising plans, and of energy for executing them.

It is certainly very proper for us, at all times, to look diligently after the obligations under which we may have placed ourselves, in virtue of compacts or agreements, with a faithful purpose of strict performance—always remembering, however, that the faith of this Government can never stand pledged to violate the constitution, or to do any thing beyond the scope of its enumerated or incidental powers. In 1784, the United States, under the old confederation, received from the State of Virginia, by grant and cession, a title to a vast territory of land, lying northwestward of the river Ohio. The terms and conditions upon which this cession was made and received, are not, for our present purposes, necessary to be known, farther than that it was stipulated that all the unappropriated lands should form a common fund for the benefit of the United States, and that States should thereafter be formed out of the territory ceded, having the same rights of sovereignty, freedom, and independence, as the original States, and should be admitted into the Union on an equal footing with those States. This was one of those engagements which were continued in force after the abolition of the old confederation, by an express stipulation in the new constitution. It is to be observed, however, that here was, as yet, no compact which contemplated the making of any road whatever.

In 1802, Congress passed a law authorizing

the people of the eastern division of the territory northwest of the river Ohio, to form a constitution and State Government, preparatory to admission into the Union as a State. In this law, it was, amongst other things, proposed to the people of the eastern division of that territory, that, if they would stipulate not to tax the lands of the United States, lying within the boundaries of the proposed State, for the space of five years, from and after the day on which the same might be sold, the United States would apply the one-twentieth part of the net proceeds of such lands, as the same should be sold, to the laying out, under the authority of Congress, and making, of public roads "leading from the navigable waters emptying into the Atlantic to the Ohio, to the said State, and through the same." This proposition was acceded to in convention by the people of the territory about to be erected into the new State of Ohio, with a modification proposed by that convention, and accepted by Congress in the next year. That modification was, that three out of the five per cent. of the net proceeds of the Government lands in Ohio should be paid over to the State, to be applied by the Legislature of the State to the same purpose of laying out and making roads in Ohio, and no other, leaving two per cent. of that fund to be applied under the direction of Congress; to be applied, not as some gentlemen seemed to have imagined, exclusively to the country this side of the Ohio, but to be applied, as all may be satisfied, by an examination of the documents on this subject, in the discretion of Congress, as if the modification of the contract had not been adopted, to the laying out and making of a road, not only to the said State, but through the same.

Let us now consider the rights and duties of the respective parties to this compact, keeping in mind, all the time, that the General Government was acting, necessarily, under the salutary restraints of the constitution. The power of Congress over the territories, as over the other property of the United States, is, by a fair construction of the constitution, limited only by the equitable rule that the power shall be so exercised as not to inflict a wanton injury upon others. Nobody doubts, except those whose wisdom consists in doubting of every thing, the power of Congress to construct roads in the territories, by money drawn from the public treasury, to improve, in any way it pleases, consistently with the rule I have just mentioned, this common property of the nation, by the application of the common resources of the nation. Nobody, for instance, will deny that Congress had power to lay out and construct a national road through the territory included in the present State of Ohio, at any time previous to its erection into a State. It had, too, as I contend, power to provide for the improvement and enhancement in value of the great national domain lying within and beyond the then contemplated State of Ohio, by

FEBRUARY, 1839.]

*Cumberland Road.*

[H. OF R.]

entering into an agreement with the people of the territory about to be formed into a State, that a road should be made through that territory, at some time after the admission of that State into the Union. The constitution gives Congress the power to admit new States into the Union, and to this the power of imposing conditions of admission is, in my judgment, clearly and necessarily incidental; and the only restraint upon Congress, in this particular, that I am aware of, beyond its own wisdom, grows out of the ordinances of the old Congress, by which the present Government is bound, and by which the old thirteen States stipulated with the people of the northwestern territory, that the new States, carved out of that territory, should have "the same rights of sovereignty, freedom, and independence, as the original States." I shall not now stop to show, that the making of a road by the United States, through the State of Ohio, by agreement with the people of that State, cannot impair its "rights of sovereignty, freedom, and independence." It can no more have that effect, than if the same privilege were exercised by an individual, or an ordinary corporate body, under an agreement with a State, as we may perhaps understand better before I have done with the subject.

The United States did, as we have seen already, agree with the people of Ohio to carry a road through the territory of that State. And, although it may in the compact sound very much like a promise to do Ohio a favor, and it could not perhaps have promised a greater, yet if there was any balance of interest, between these parties, in the contemplated improvements, it was on the part of the United States. Having agreed to admit new States into the Union, from the vast regions beyond the Ohio and the Alleghanies, the Government must have looked to the avenues which it proposed to open to and through those regions, as the arteries through which a healthy circulation might be kept up in the extremities of the body politic. Certain it is, the United States did agree to open such an avenue, and under such circumstances, as I contend, that it has acquired the absolute and unequivocal right of laying out and making a road through the State of Ohio; placing itself under a clear obligation to expend a specified fund on some such work as was contemplated in the compact, and acquiring thereby, as clearly, the right to expend money beyond that fund, if necessary to complete such work and keep it in repair.

The fact that the expenditures for the Cumberland road have already greatly exceeded the two per cent. fund, it seems to me cannot, in any way, as some have contended, affect the power of this argument. Its obligation to Ohio, under the compact, may have expired with the fund, but the right which it acquired survives it. For the benefit of Ohio, a specific fund was pledged to be expended upon such a

work, but it seems to me absurd to say that the use of the Cumberland road, by this Government, is to cease, whenever that fund may happen to be exhausted, for want of power to apply other means necessary to its completion and preservation. In this way, then, at which I have now briefly glanced, do I think the power of this Government may be deduced, in frequent accordance with the constitution, to make an appropriation for that portion of the Cumberland road which lies within the State of Ohio; and it will be readily perceived that the same argument, if tenable at all, may be made to support the continuation of this road through the State lying westward of Ohio.

I will now, with the indulgence of the committee, proceed to inquire how Congress may derive the power of making an appropriation for that part of the road in question, which runs through the States of Maryland, Pennsylvania, and Virginia. It will be recollected that the compact between the United States and the people of Ohio contemplated a road "leading from the navigable waters emptying into the Atlantic," to and through that State; and as the route of such a road must necessarily be from its eastern termination, through some of the original States, it was provided that Congress should lay out the road westward to the river Ohio, "with the consent of the several States through which the same should pass." No gentleman in this House can be more certain than I am, that the consent of any individual State cannot authorize Congress to do what the constitution has not given it the power to do. This would be to put it in the power of a less number of States than the constitution requires, to make any amendment they pleased to propose, and to clothe Congress with any power they pleased to confer; even a single State could do this, in the face of the constitution, and in defiance of all the other States in the Union. But this does not seem to me to be a case where consent is claimed as conferring power. The power, I apprehend, on examination, will be found in the constitution, but is a power of that imperfect kind that it cannot, or ought not, in certain cases, to be exercised without consent.

In the present case, let it be recollected, we are inquiring after the powers of Congress to lay out and construct the Cumberland road through the States of Maryland, Pennsylvania, and Virginia, with the consent of those States. The interest which the United States had in its public lands was neither forgotten nor neglected by the framers of the constitution. And without entering now into a minute examination of that clause of the constitution which gives to Congress power over the public domain and the other common property of the United States, I venture to lay down this proposition: that Congress possesses, under that instrument, precisely that kind and extent of power and authority over and respecting the public lands, which any individual or ordinary



corporation, having the absolute ownership of them, would possess. So far as the property, merely, in these lands, is concerned, the United States may be considered merely as a corporation, having the ordinary power of a proprietor to do with them as it pleases for the common benefit, only taking care, in what it may do, not to injure the property of any other corporation, or of any individual whatever. Congress may dispose of these lands; and, to bring them into market and enhance their value, it may cut them up in every direction with roads and canals. It may, in my judgment, do more; it may open a communication to them through any State in the Union, with the consent of that State.

Mr. DANIEL said: I hope the House will bear with me while I submit to them a few considerations in favor of the amendment offered by the gentleman from Pennsylvania, (Mr. BUCHANAN,) and against the power asserted in the original bill to erect toll-gates on the Cumberland road. I object to the exercise of this power on two grounds: First, because it is unconstitutional: secondly, because, if constitutional, it is not expedient. Before I proceed to examine these propositions, I will take occasion to say that I admire the inventive genius of some gentlemen, and of none more than my colleague, (Mr. BUCKNER,) who derives the power to construct roads and canals, and erect toll-gates, from every nook and corner of the constitution. It is admitted that the power to establish post offices and post roads is expressly delegated to Congress; but the power to erect toll-gates, and make the people pay a tax for travelling over the post roads of the United States, to the entire exclusion of the jurisdiction of the States over those roads, is certainly a very different question. Have Congress the right to erect toll-gates on any or all of their post roads, and, by means of toll, pay salaries to superintendents and toll-gatherers, and keep the roads in repair, to the exclusion of all State authority? is the point on which hang "all the law and the prophecies."

The several States of this Union first entered into articles of confederation and perpetual union, which, after fair experiment, proved to be inadequate to the purposes for which they were intended. For the purpose of securing a more efficient Government, our present constitution was formed and adopted. With careful jealousy, the people, both in the articles of confederation and in the constitution, guarded the rights and sovereignty of the States from any unnecessary innovations. In the former instrument, the second article read as follows: "Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled."

The Constitution of the United States, as originally adopted, contained this feature of

the articles of perpetual union and confederation; but so careful were the people to guard and protect their State Governments, that they made an explanatory amendment, which they thought could leave nothing to doubt or construction. That amendment, which now forms a part of the constitution, is in the following words: "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." The object of this amendment is obvious. It was to mark and define the limits of those powers which were to be exercised by the General Government, and specify what was left to the States, in a manner so plain as to prevent disputes and collision. Thus the patriots and sages of the revolution, who well knew that the safety of liberty in this country would depend on preserving the State Governments, took every precaution within the compass of human vigilance, to explain and hedge in the powers granted to the General Government. Doubtless, they believed they had accomplished their great object, and had so clearly prescribed the limits of federal authority as to cut off the possibility of dangerous encroachments on the rights and independence of the States. But of late years, all their anticipations have been falsified by a set of political latitudinarians, who have the art to deduce the most tremendous powers as incidental to the most trifling grants, and are driving their theories and their practice to the destruction of those State powers and institutions which it was the chief object of the constitution to protect. Dazzled with the central Government, they strive to increase its splendor by robbing the States of their reserved powers, and reducing them to petty corporations. This doctrine has made great progress, in this House and out of it. Consolidation, so much dreaded by Patrick Henry, and other distinguished statesmen of former days, has lost all its terrors, and, if I am to judge by the arguments of gentlemen, has become a desirable object.

No man can read the constitution without being satisfied, that it was the intention of those who framed and adopted it, clearly to designate every power which this Government should possess. Incidental powers are the necessary parts of a general grant. When a power is claimed as incidental, we have only to examine whether it is necessarily included in the general grant; if not, the power is not incidental, and therefore not delegated.

The State constitutions are predicated on a different principle. They are not delegations of power, but limitations. If a people who have no constitution choose a legislative body, their power, like the British Parliament, is unlimited. The people of our States have deemed it necessary to limit the powers of their legislative bodies by written constitutions. Except on those points in which the State Legislatures are restricted by the State constitutions, or the

FEBRUARY, 1839.]

*Cumberland Road.*

[H. OF R.]

Constitution of the United States, they are politically omnipotent.

That the State Governments have the right to construct roads through any portion of their territories, and put toll-gates upon them, unless restrained by their own constitutions, there is no room to doubt. The Constitution of the United States neither grants the general road-making power to Congress, nor does it forbid its exercise by the States; it is therefore reserved to the States, or to the people. The power, however, to establish post offices and post roads, is expressly granted. Whether this grant means only that Congress shall designate the roads on which the mails shall travel, as some contend, or that they may make those roads, is not important to my argument. I am inclined to the opinion that they may make a road under this grant, wherever it shall be necessary for the transportation of the mail; but the power to tax the people for travelling on that road, is a very different thing.

But, certainly, the only kind of road which the United States can make, under this grant of power, is post roads; the power of making every other species of road is left to the States. Toll-gates are not necessary, nor is it possible to employ them in making or establishing post roads. The power to erect them is not, therefore, incidental to the power to establish post roads. Those roads can be repaired by the same means employed to establish or make them. Indeed, the power to repair roads is itself incidental to the power to make or establish: for the constitution does not delegate to Congress in express terms the power to repair post roads. We have seen that toll-gates are not necessary, nor can they be employed, in the making of roads, and consequently the right to erect them is not incidental to that power. If it be incidental to the power to repair post roads, it is not an incident of the general grant, but the incident of an incident. The reasoning by which it is deduced from the original grant, is something like this: Congress has a right to establish post roads, therefore Congress has a right to repair post roads, therefore Congress has a right to erect toll-gates on post roads. Thus, a power which cannot possibly be employed in effecting the original grant, is deduced as incidental to that grant by a process of reasoning!

Now, I maintain that you must employ the same means to repair post roads as may be employed to establish them, and no others. When a power is granted, the means to make it effectual are granted also. The constitution grants the power to make or establish post roads. What are the means? Not toll-gates, but the appropriation of money and the employment of hands. These are the only incidental powers by which post roads can be made or established. After the road is established, and the object of the grant completed, is it not absurd to say that the incidental power of keeping it in repair has also its incidents, which

were unknown to the original power? Are not the means by which the road was established, or made, sufficient to keep it in repair? Can it not be done by appropriations, and the employment of suitable hands? No man doubts it. The power of erecting toll-gates is not, therefore, incidental to the power to establish or make post roads, nor can it possibly belong to it. I view it as an assumption of power by this Government, wholly unwarranted by the constitution.

TUESDAY, February 10.

*Cumberland Road.*

The House then again went into Committee of the Whole on the state of the Union, and took up the bill for the preservation and repair of the Cumberland road.

Mr. BELL rose and said: Upon all the questions presented by the bill, I fear candor would require me to admit that those who support it occupy the "vantage ground" of public sentiment. By this admission, I mean to say no more than that, by an extraordinary combination of circumstances and interests, to which we have all been witnesses, within the last four or five years, a majority of the people in a majority of the States of this Union has been prepared to sanction any measure in relation to what is called a "national system of Internal Improvement," which the leading advocates of that system, in this House, may choose to urge upon us. So strongly does their position, in this respect, operate in sustaining them upon this floor, that he who shall venture in the discussion of any of the many internal improvement bills which come before the House, to question the authority of Congress to act upon such subjects, is but too apt to be discouraged by such symptoms of discontent as I know, from the usual courtesy of the House, can only spring from something like a belief that this question has been settled by the practice of the Government, and that further opposition must be the result only of a spirit of obstinacy.

Now, I have just had experience enough of the influences and principles which govern the proceedings of Congress, to know, that no system of policy of great and general interest can be either introduced here, or successfully opposed, until public sentiment shall have been in some degree prepared for its adoption or abandonment. It is with this knowledge, and a deep conviction of the magnitude of the considerations involved in the bill before the committee, that I am induced to say any thing upon the present occasion. I believe that the time will not be lost, either to the committee or to the country, which, being devoted to the further discussion of this subject, may be the means, either of reviving the recollection of some of the prominent objections heretofore urged against measures of this kind, or of bringing to

light any new arguments, which, under the practice of the Government in relation to this subject, experience may have recently developed.

Although I shall give no pledge as to the time I shall occupy in the discussion of what I consider the question of chief interest raised by the bill, yet, upon the mere constitutional question, I promise to be brief. The ability with which that part of the subject has been handled by those gentlemen who have preceded me, would deter me from going fully into it, if no other consideration restrained me. But I have not so much confidence in the efficacy of mere constitutional arguments as some gentlemen, as I may take occasion to explain more fully before I sit down; at all events, whatever might have been their effect at an anterior date, in the history of the assumption of implied powers by this Government, I fear they must be unavailing in this crisis of the policy of the country, in relation to a great and important interest involving in its issues perhaps the destiny of the republic. The mere glance which I shall give at that part of the subject will be more out of respect to the opinions of those who seem to think the constitutional question the only one presented by the bill, than because I think the discussion of it, at this time, of much importance. In making this declaration, however, I would not be understood as placing a light value upon a strict adherence to the constitution in the measures of Congress. A disregard of the spirit of that instrument, manifested in the proceedings of Congress, upon subjects however trivial and unimportant they may be, is to be regretted. In such cases, however, the evil operates by example only; but it is a matter of far different import, when by implication and construction, such a range of action is proposed to be given to the Federal Legislature as can only be done by spurning the idea that there ever were any fixed limits to its authority; or, if admitted to exist, by boldly trampling them under foot, as things calculated only to become stumbling-blocks to the weak and fastidious. If, by one mode of construing the constitution, what is called an incidental power may, in its exercise, become greater than the substantive one from which it is derived; if a power which those who formed the constitution did not suppose they were conferring upon Congress, or rather one which we find, from the journal of their proceedings, was expressly negatived, may, by construction, become a source of the principal business of Congress; if, I repeat, a power which, at most, could only have been regarded as last and least of the purposes for which the constitution was formed, may become first and chief in the operations of the Government organized under it, reflecting men may very well begin to consider whether the idea of a written charter of liberty is not all a delusion, and whether public sentiment, as it may be changed and modified from time to time, accordingly as this or that political

faith or party may predominate, is not the only barrier, at last, which the nature of man and of human society admits of, against the encroachments of power and ambition.

Before I proceed to the brief notice which I intend to take of the constitutional question, permit me to advert, for a moment, to what I consider a sort of anomaly in the pretensions of the leading advocates of this system of Internal Improvement. One cannot but infer, from the tenor of their arguments in support of the policy of assuming the power to construct roads and canals, that they think themselves entitled to stand in the first rank of those who, in their political course, have most regard for the union of these States. Now, without disputing the honesty of their intentions, I say they are the last men in this country who have any just claim to such precedence. They say they are employing all their skill and ability in forging new ties of union, and charge that their opponents are perpetually managing to tie up their hands in the good work by gleaming fetters from the constitution. I say, they are doing their utmost to destroy the existing cords, which bind the States; and although they may succeed for a season, by means of that fertility of resource in argument, and a pleasing elocution, which I admit some of them possess in a high degree, in persuading the country that their schemes of Internal Improvement entitled them to be proclaimed the very champions of union; yet, if they shall succeed in bringing their plans into more general favor than they have already done, those who come after us may have cause to regret the existence of gifts which had so much power to win; or, to speak more justly, that a scheme of Federal policy was ever devised by gentlemen, calling themselves friends of union, which contained in itself a principle of persuasion more eloquent than the tongues of men, in making converts to its expediency. Some future traveller, contemplating among the broken columns of this capitol, the ruins of a great confederated republic, in tracing the causes of its downfall may assign to their proper class the statesmen of this day; and a disunited people, in brooding over the story of their misfortunes, may have to determine whether those who were eager to push their wild and extravagant schemes beyond the verge of the constitution, and the longer endurance of those whose means were exhausted in support of them, were the real friends of union or not. Sir, if I believed this picture would be realized, I could not stand up in my place; yet who does not see that it may be so, if success shall still attend every effort at a new assumption of Federal power, and every new project of the majority to enrich themselves at the expense of the minority! What are some of the most striking circumstances under which this grand system of Internal Improvement is attempted to be executed? In a third, or more than a third of the States, it may be considered the settled doctrine, that Congress has no

FEBRUARY, 1829.]

*Cumberland Road.*

[H. OF R.]

power to act upon this subject. A third of the whole population of these United States believe they are to be the victims of this policy; yet gentlemen who advocate this system upon this floor, from day to day, and from year to year, and who openly acknowledge that they have to contend against nearly equal numbers for every inch of ground they occupy, do not shrink from the absurdity of urging the love of union in support of their projects! Does it matter, in questions of this sort, whether the minority are mistaken or not, in their opinions of the proper construction of the constitution? Or whether the apprehensions of those who believe that ruin to their interest is to be the result of the present policy of the majority, are mere delusions or not? Do not prudence and patriotism call as loudly as ever on the majority, by every consideration of order, and perhaps of liberty and union, to forbear? Justice, moderation, and forbearance, in the majority, towards the minority, are the best preservatives of union, said an able man, at the last session of Congress, in relation to this question; and it then seemed to me to be a sentiment so full of wisdom and patriotic feeling, that it deserved to be written on the frieze of the columns which surround this hall, that it might be ever present to the minds of those who sit here to deliberate and determine upon the true policy of the Government, in relation to every great interest.

Let us now take a brief view of the grounds upon which it is attempted to sustain the authority of Congress to enact the main provisions of the bill before the committee. The power to erect turnpike gates, and the right to exact tolls upon the road in question, is derived from the power which it is said Congress had to construct the road in the first instance; and the former power is admitted, by the advocates of the bill, to be dependent upon the latter. This is the true state of the question, as regards that part of the road which is located in Ohio. Some of the gentlemen on the other side contend that the question is modified, in regard to the old Cumberland road, by the cessions which have been made by the States through which it passes, to Congress, and that, as to this part of the road, no constitutional impediment exists, though there might be some doubt as to the power of Congress to extend the provisions of the bill to the part of the road which lies in Ohio. The compact with the States north of the Ohio, has, as I think, been judiciously thrown out of the question, as having nothing to do with it, unless the power to construct this road can be shown to have existed independently of that compact.

The modified question which has been presented in the argument, I think will be found, upon a short examination of it, to result in the general question, as I have stated it. Some speculative inquirers have said, that all human knowledge might be reduced to a few general

principles and propositions. While the experience of each day is teaching us the fallacy of this theory, and the danger of relying too much upon general principles in the management of any of the affairs of life, yet all will admit that the process of generalizing in reasoning, or of tracing things up to first principles, is, in some cases, the only test of truth. Those who place any reliance upon the cessions which have been made by the States, do so, only because, without such cessions, they doubt the power of Congress to legislate in any way concerning the construction or preservation of the road. Now, are gentlemen, who take this ground, aware of the principle they assume, and would establish? If they can show that they have taken a correct view of the subject, what is it? It is, that the powers of Congress, and the subject-matters upon which they are authorized to legislate by the constitution, may be added to, and enlarged, at the option of one or more of the States. If this be a correct principle, it is a discovery of the utmost importance; for it must inevitably lead to a removal of all constitutional restrictions upon the proceedings of Congress. But, sir, has this principle been assumed as a dogma or tenet by any political party, which does, or ever has existed in this country? If it has, I am ignorant of the fact. Will the gentlemen who advocate the bill contend for such a principle? I know they support doctrines which must lead to the same results, but they have never had the boldness to come out openly, and in the face of the country to contend that any of the States can confer new powers upon Congress, or create new subjects of Federal legislation, in any other way than that pointed out by the constitution itself. The consent, then, of the States through which a part of this road passes, implied in the cessions which have been made by them, has no more to do with the subject than the compact with the States north of the Ohio.

When it is argued that Congress may rightfully preserve a road which it had the power to construct in the first instance, it does seem to me that the advantage of the argument is with the gentlemen on the other side. If you grant the power to make the road, I can see no constitutional impediment to the erection of toll-gates, that being the usual mode of assessment upon the public for keeping roads and bridges in repair. It would then be a mere question of expediency, about which I feel but little interest. I am willing the people of this country should know the full extent to which Congress may go in the exercise of the power to make roads and canals. But, sir, the error in the argument of the gentlemen who support this bill is, in taking it for granted that this power to construct roads is vested by the constitution in Congress. I know that it has been said that this point has been settled by the repeated decisions of this House. While I am willing to admit the force of precedent in legis-

lating under the constitution, as well as in judicial determinations, and am satisfied that no political compact can be devised by the wisdom of man, upon which all men would concur in their opinions of the extent and proper constructions of its provisions, yet no precedent, involving a great and vital principle, either in the Federal Legislature, or in the courts of law, has ever been, nor should it be, considered as settling such a principle, until it shall have been sanctioned by long and general acquiescence. It is because this power in Congress to construct roads and canals has never been so sanctioned, that I consider the question open for farther discussion. In availing myself of this state of the question, in a limited degree, I will advert for a moment to the manner in which the exercise of this power will operate, as it may affect the rights of the citizens, and as it may conflict with the State authorities. It is by selecting plain and practical examples, by way of illustration, that we can best understand the full operation of any principle or power. In the first place, if you have the power to construct these roads, you have the right to take from the citizen the usufructuary interest in the soil, without his consent. It would be a trespass in him to resist those charged with the actual construction of one of these roads or canals, in an attempt to throw open his fields, or to pull down his farm-houses, which may be in its course. The State authorities cannot protect him; and they, in their turn, in the exercise of powers which are not denied to them, may cut up his freehold in another direction, and the Federal authorities, in that case, cannot interfere in his behalf. Thus the property of the citizen is at the mercy of two sovereignties, and all the consolation he can take to himself is, that he can demand a recompense for the loss of the use of his property, in the adjustment of the amount of which he has nothing to do. Now, do the people of this country understand that their property may be taken by two Governments, in this respect altogether distinct and separate, for the same public use—the use and purpose being one—that of keeping up public highways; the invading authorities being two, and at the same time acting independently of each other? So much for the effect of the exercise of this power by Congress upon the rights of the citizen. Let us see, in the statement of a plain example, how the jurisdiction and authority of the States may be interfered with. In the State which I have the honor to represent in part, and I refer to that State merely because I am better acquainted with her municipal regulations than with those of any other, the public interest has been found to be best consulted by committing to a court, in each county, composed of the justices of the peace in each, the power not only of ordering the opening of any new road, but to alter or discontinue altogether any old road, if, in their opinion, the public interest required such an

exercise of their power. If the property of any citizen is, in any case, supposed to be injured, by opening a road over it, a form of assessment, by his neighbors, of the damage he may have sustained, is prescribed by law, which, in general, secures him a fair remuneration. Under the operation of this policy in relation to roads, in that State, the joint interest and convenience of the population of all the counties in the State have been promoted by roads leading from one county to another, and the interest and wishes of the citizens of adjoining States have always been attended to, in keeping up roads leading to and from each other. The citizens of that State have not heretofore supposed that any power, except their own Legislature, could compel them to contribute to the public welfare, in the opening of roads through their farms; nor have they supposed that they could be made liable to pay any other fees or tolls for the use of any road in that State, than such as might be ordained by their own State Legislature. It has never entered into the heads of those who have been engaged in the legislation of that State that the entire policy in relation to public roads might be defeated and annulled by any other authority whatever. The same view, I presume, in substance, might be presented, in relation to the road police of every other State of the Union. From what I have said, it will readily occur to every one that serious collisions might arise between the Federal and State authorities, if this power is assumed by Congress. It will also be perceived that an attempt to convert Congress into a general turnpike and canal company for all the States, with the privilege to take the property of the citizen and to levy tolls at its discretion, would not be likely to meet with a favorable reception in any of the States, upon a first introduction. I will presently show that the projected system of Internal Improvements possesses an inherent quality, which causes it to be regarded with less alarm, upon a near approach; and how, by holding out the lure of immediate and tangible interest, it is enabled to triumph over the influences of the lasting and more important benefits to be expected from an adherence to principle.

But I am unwilling to leave this part of the subject without noticing the general doctrine which I have heard advanced in support of the power of the Federal Government to apply to public use so much of the property of the citizen as may be required in the execution of this system of Internal Improvement. It is said this may be done under what is technically called the "right of eminent domain," or the right which every form of political society possesses, in its corporate capacity, to the use of all the property of all the individuals entitled to protection under it, for the support and protection of the whole. The correctness of the position, as a general doctrine, I do not deny; but I contend it has no application to the present ques-

FEBRUARY, 1829.]

Chamberland Road.

[H. OF R.]

tion. When the people, or the States, (and it is immaterial to my argument which of them,) formed and became bound by the present constitution, they acted under a sense of the necessary existence of such a right as is contended for; but it was a great and capital consideration with them to guard the exercise of it against those abuses which had characterized all bad governments, and which they knew would distinguish this one, if they did not carefully define and limit it in such a manner that Congress should not be allowed to take the property of a portion of the citizens, under the pretext that it was necessary to do so, to promote the prosperity or secure the protection of the whole community. The constitution limits the manner of exercising this right of taxation, direct and indirect, and secures the citizen against unequal exactions, by providing that all taxes shall be uniform. The property of the citizen, taken in the exercise of this right of eminent domain, in this country, or indeed in any country, cannot be refunded in any other way than by securing to him that equal protection, and the enjoyment of the advantages of that form of government, which it may be his lot or his choice to be subject to, and for the preservation of which he is bound not only to yield up the whole of his property, but his life also. That clause of the constitution, therefore, which provides that private property shall not be taken for public use without just compensation, must refer to some of those irregular invasions of the rights of the citizen inseparable from the operation of the Government, and not to that appropriation of his property to public uses, which is expressly allowed by the constitution, and which is not the subject of compensation in money. It provides a compensation for those violations of private property which are sure to result from a state of war. Our armies, in carrying on war, in our own territories, are often driven, by necessity, to seize upon munitions of war, and provisions for subsistence, in the hands of private citizens, without their consent, which can only be justified by that paramount law of self-preservation attaching to collective masses of men, as well as to individuals, strengthened in this case by the consideration that, in the army, while in actual service, all the active energies of the Government are concentrated, and they are thus charged, for the time, with the common defence and protection of the whole country. Our armies, *aggravants bello*, are justified upon similar principles, in violating the rights of the citizen by opening roads through fields and private forests, in pursuit of or in retreating from an enemy, and these are the only roads which can be properly denominated military roads—roads growing out of the necessities of war and made by the soldiery.

But it is said that Congress being vested with the war-making power, and charged with the common defence, you would strip the country

of one of the most efficient means of defence if you deny to the Federal Government this power to make roads and canals. A time of peace is said to be the proper time to prepare for war. Let us examine whether the Federal convention did not have this matter of defensive preparation in view, when they agreed upon the provisions of the constitution, and whether they did not point out and limit the authority which Congress should exercise over the territory of the States, to secure that object. Forts, magazines, dockyards, and other buildings, it was foreseen, would be essential requisites in the execution of the duty of making war, and of providing for the common defence; and it was perceived that something more than the mere transitory right of occupying the territory of the States with our armies, in time of war, might be necessary to be vested in Congress over such places as should be selected for the purposes of permanent fortifications and supply; and, therefore, the power was given to Congress to exercise exclusive jurisdiction over all such places, with the assent of the States. If Congress has not thought proper to exercise such jurisdiction over any of them, it only shows that more power was given than was necessary to secure the objects intended. It was thought, also, that the deliberations of the Federal Legislature should be free from the interruption or influence of the State authorities; therefore, it was provided that Congress should have exclusive jurisdiction over these ten miles square.

These provisions of the constitution are clearly nugatory and inoperative, if Congress may assume any legislative power over the territory of the States, for any other purpose. The argument is, that the country cannot be put in a complete state of defence, by the exercise of jurisdiction over the sites of forts, &c.; and it is contended that, in the discharge of that duty, Congress must assume jurisdiction over as much more of the territory of the States as will be required in the construction of such roads and canals as may be thought necessary to the common defence. May not gentlemen, with the same propriety, contend that, if Congress shall be of opinion that the purposes for which a power of exclusive jurisdiction was given over these ten miles square, have not been secured, the right to add another ten to them may be implied? The argument I have advanced is not impugned by the exercise of legislative authority over the public domain, in the new States. That power is expressly given by the constitution; besides, it is only a proprietary interest which the United States hold in these lands. I will make one other remark upon this point, and I shall have done with it. We have heard a great deal upon the subject of the value of the roads and canals proposed to be constructed, in a military point of view. It does seem to me that a very mistaken notion prevails upon this subject. I have

H. of R.]

President Elect.

[FEBRUARY, 1829.]

no experience in military operations, but I do not believe that any of the great roads now projected are ever to be of any material advantage to the country in time of war; and if our neighbors were somewhat stronger than they are now, or are ever likely to be, I think it could be demonstrated that it would be altogether problematical, and that it would depend on many contingencies, whether the great roads proposed to be made from the centre, in the direction of the most exposed points of our frontier, may not be more useful to our enemies than to ourselves. I know that many gentlemen may regard it as perfectly ridiculous, and even degrading to our national character, to suppose that any foreign enemy will ever have the impudence to attempt to penetrate the interior of our country; I hope it never may be in the power of an enemy to succeed in any such attempt; but I must say that this is inauspicious ground upon which to indulge any such proud anticipations of our power and good fortune in war.

WEDNESDAY, February 11.

*Counting of Electoral Votes.*

It being now twelve o'clock, the Speaker announced the special order of the day, which was the opening and counting the votes for President and Vice President of the United States: whereupon,

Mr. P. P. BARBOUR moved that the Clerk announce to the Senate that the House was ready, on its part, to proceed to that duty.

The motion being agreed to—

The Clerk left the House, and seats having been prepared for the Senate in the vacant space in front of the Clerk's table, they soon after entered the hall, with the VICE PRESIDENT at their head, preceded by the Secretary and Sergeant-at-Arms of the Senate.

When the Senators had taken the seats assigned them, and the VICE PRESIDENT had seated himself at the right hand of the SPEAKER, the tellers, viz: on the part of the Senate, Mr. TAZEWELL, and, on the part of the House, Messrs. P. P. BARBOUR and VAN RENSSELAER, took their places at the Clerk's table.

The VICE PRESIDENT then, having before him the packets received, one copy by express, and one through the post office, from the several States, took up those from the State of Maine, and, announcing to the Senators and Representatives that those packets had been certified, by the Delegation from Maine, to contain the votes of that State for President and Vice President, proceeded to break the seals, and then handed over the packets to the tellers, who opened and read them at length. The same process was repeated, until all the packets had been opened and read; when,

Mr. TAZEWELL, retiring to some distance from the Chair, read the following report:

No. of Electors appointed in each State.	STATES.	For President.		For Vice President.	
		ANDREW JACKSON, of Tennessee.	JOHN Q. ADAMS, of Massachusetts.	JOHN C. CALHOUN, of South Carolina.	RICHARD RUSH, of Pennsylvania.
9	Maine.....	1	8	1	8
8	New Hampshire....	2	8	2	8
15	Massachusetts.....	15	15	15	15
4	Rhode Island.....	4	4	4	4
8	Connecticut.....	8	8	8	8
7	Vermont.....	7	7	7	7
36	New York.....	20	16	30	16
8	New Jersey.....	8	8	8	8
28	Pennsylvania.....	28	28	28	28
8	Delaware.....	8	8	8	8
11	Maryland.....	5	6	5	6
24	Virginia.....	24	24	24	24
15	North Carolina.....	15	15	15	15
11	South Carolina.....	11	11	11	11
9	Georgia.....	9	9	9	9
14	Kentucky.....	14	14	14	14
11	Tennessee.....	11	11	11	11
16	Ohio.....	16	16	16	16
5	Louisiana.....	5	5	5	5
5	Indiana.....	5	5	5	5
8	Mississippi.....	8	8	8	8
3	Illinois.....	3	3	3	3
5	Alabama.....	5	5	5	5
8	Missouri.....	8	8	8	8
261		178	88	171	88

## RECAPITULATION.

*For President.*

ANDREW JACKSON, of Tennessee,	178
JOHN QUINCY ADAMS, of Massachusetts,	88
	261

*For Vice President.*

JOHN C. CALHOUN, of South Carolina,	171
RICHARD RUSH, of Pennsylvania,	88
WM. SMITH, of South Carolina,	7
	261

The result of the election was then again read by the VICE PRESIDENT, who, thereupon, said:

I therefore declare that ANDREW JACKSON is duly elected President of the United States for four years, from the fourth day of March next, and JOHN C. CALHOUN is duly elected Vice President for the same period.

The Senate then retired.

THURSDAY, February 12.

*President Elect.*

Mr. P. P. BARBOUR, from the Joint Committee appointed to ascertain and report a mode of examining and counting the votes for President and Vice President of the United States, and of notifying the persons elected of their election, reported the following resolution:

*Resolved*, That a committee of one member of the Senate be appointed by that body to join a committee of two members of the House of Representatives, to be appointed by that House, to wait on

FEBRUARY, 1839.]

*Cumberland Road.*

[H. OF R.]

ANDREW JACKSON, of Tennessee, and to notify him that he has been duly elected President of the United States for four years, commencing with the 4th of March next.

A message was then received from the Senate, notifying the agreement of the Senate to the resolution recommended by the Joint Committee.

The resolution was then taken up by the House, and adopted, and Mr. HAMILTON and Mr. BELL were appointed the Committee on the part of the House.

MONDAY, February 16.

*Cumberland Road.*

This bill being again taken up—

Mr. T. R. MITCHELL, of South Carolina, then took the floor, and said that the great length of the discussion must have exhausted the patience of the House, and rendered it necessary that he should apologize for the farther tax which he was about to impose upon it. He assured the House that he made the attempt with unfeigned reluctance. I do not speak with the hope of making a convert, (said Mr. M.) for on a subject so frequently discussed, and so profoundly examined, who has not made up his mind? I do not speak for the sake of exhibition; for talents infinitely superior to mine could give neither novelty nor ornament to a theme so threadbare. But I speak at the peremptory instance of my constituents, who consider the power involved in the amendment as unconstitutional, and fatal to their liberties; and claim it as their privilege to protest and remonstrate against its exercise by you. In a series of resolutions submitted by their Legislature to this House, at the last session, and suggested by them, you are called on, in the stern and impassioned language of freemen, to retrace your steps; to abandon that which you cannot justly hold; and to relieve their minds from those gloomy forebodings to which the assumption of this power naturally gives rise. In obedience to their will, I shall, therefore, as briefly as possible, present their views.

What, sir, does this amendment propose? Why, that this Government should cede, upon certain conditions, to the States of Virginia, Maryland, and Pennsylvania, any property which it has in the Cumberland road. And the important question which here suggests itself is, whether this Government has any property in the road? for, if it has not, the amendment will, of course, fall to the ground. If, sir, we have any property in this road, it must be derived from one of two sources: either from the grant of those States, made by acts of their Legislatures, or by a power given to us by the constitution to make roads. Now, sir, if we examine the act of Congress under which this Cumberland road was made, and compare it with the corresponding acts of Maryland, Virginia, and Pennsylvania, we will be

convinced that it was neither the intention of Congress to obtain, nor the intention of the States to grant any interest in the road. The act of Congress simply requires the President to adopt the most effectual means to obtain the consent of those States that he should "cause the road to be laid out and completed within their respective territories." No cession of sovereignty over the soil, nor proprietary interest in it, was demanded by the Government; the only boon which it sought was simply an authority to make the road within their jurisdictions. A road leading from the Atlantic to the waters of the Mississippi was considered an object of great national importance; it would promote the personal convenience of the people; it would give rise to a profitable commerce between the East and the West; and, above all, it would perpetuate the Union of the States. Congress thought it would be only necessary for them to make the road, as the interests of the States would induce them to keep it in repair. The act of Maryland, in answer to this application, is expressed with the most circumspect precision. It simply "authorizes" the President to cause the said road "to be laid out, opened, and improved, in such a way and manner as, by the before recited act of Congress, is required and directed." Nothing more is here granted to Congress than a bare naked authority to lay out and make the road. The act of Pennsylvania is, if possible, more conclusive to this effect. The title of that act is, "An act authorizing the President to open a road through that part of this State lying between Cumberland, in the State of Maryland, and the Ohio River." The first section authorizes the "President to cause so much of the said road as will be within the State to be opened, so far as it may be necessary the said road should pass through this State." And to prove that Pennsylvania did not consider the grant of this authority as involving any interest in the land, a second section is subjoined, giving a right of entry on the land to the commissioners appointed by the President to lay out the road. Why grant a right of entry to the commissioners, if she had ceded to the United States either a sovereign jurisdiction over the soil, or an interest of any description in it? The most precarious and limited estate in lands—a mere tenancy at will—carries with it a right of entry. We cannot attribute so much ignorance, so much folly, to an assembly so distinguished for its wisdom as the Legislature of Pennsylvania, to suppose, for a moment, that, in one section, she should have ceded an interest in the lands, and in the next she should have granted a right of entry. In further support of this construction of these acts, I offer the political opinions of Mr. Jefferson, who sanctioned the act of Congress. No man was more delicate with regard to the soil, nor more devoted to the sovereignty of the States, than this immortal patriot. Had he obtained an interest in the soil, from those States, it would



have been in opposition to the principles by which he had been elevated to the Chief Magistracy, and for the preservation of which he had sacrificed his seat in the cabinet of President Washington. To go as far as he did, to appropriate money to make the road, was a fundamental error, which can be explained only by supposing that his imagination misled his judgment; that, convinced of the necessity of such a communication between the East and the West, and dazzled with its brilliant advantages, he did not examine, with sufficient coolness, the exact tendency of the measure with regard to the constitution.

But we all have to deplore this error. It has given rise to a new theory, under which, in a subsequent administration, (that of Mr. Monroe,) millions have been lavished, for no other purpose than to purchase aspiring men, or conciliate adverse sections. Mr. Monroe, afraid to abandon the doctrine that we have no constitutional power to make roads, lest he should disaffect the party by which he had been supported, and, at the same time, anxious to meet the views and promote the interests of his adversaries, took advantage of this error of Mr. Jefferson's to establish a new construction on this subject, which is even more dangerous, as it is more insidious, than an open unqualified assertion of the power. Professing the greatest respect for the sovereignty of the States, and the sacredness of their soil, the United States, says he, has no power, under the constitution, to make internal improvements: I will sanction no act of that kind, but they can appropriate money, in any amount, to such undertakings, provided they be of a national character. Now, this is, in every respect, exceptionable. If we appropriate money to the construction of a road, we certainly should have a control over it; we should have the power to establish toll-gates, to keep it in repair, and of inflicting penalties for injuries done to it. Under this construction, those immense surveys of routes of roads and canals have been made, and works of this kind projected, which, if they were undertaken, will cost the people thousands of millions of dollars; and, if not undertaken, will be millions thrown away, in employing our engineers in idle peregrinations from one part of the Union to another. It has been used as an engine of vile and corrupt electioneering. To conciliate a section, the administration has no more to do than to lay off a road or canal in it, and a powerful party is immediately formed in its support. The whole community is benefited by it; those who undertake contracts for executing the work; those who are employed on it as laborers; shopkeepers and farmers who supply them; in fact, it is showering on them so much unexpected gold, which all scramble for, and all get a part of. Finally, if the construction which I have put on these acts of Maryland, Virginia, and Pennsylvania, be not correct, all language is unintelligible, and

laws are not guides, to direct, but false lights, to deceive and confuse us.

TUESDAY, February 17.

*President Elect.*

Upon a call for reports of Select Committees—

Mr. HAMILTON, of South Carolina, said that he rose for the purpose of informing the House that the committee appointed to meet such committee as the Senate might appoint, to notify ANDREW JACKSON of his election as President of the United States for four years, to commence with the fourth of March next, had discharged this duty; and that the President elect, in signifying his acceptance of this office, had expressed his deep sensibility of its responsibilities, and his gratitude to his country for this recent proof of its confidence. He had, moreover, requested the committee to convey to their respective Houses the assurances of his high consideration and regard.

WEDNESDAY, February 18.

*Cumberland Road.*

On motion of Mr. MEMOR, the House took up the bill for the preservation and repair of the Cumberland road.

Mr. McDUFFIE warned gentlemen that the very first moment he perceived any attempt to prolong the debate on this bill, he should immediately move for the consideration of the appropriation bills.

Mr. CHILTON delivered his sentiments at length in opposition to the amendment, and in favor of the original bill.

Mr. ALEXANDER moved to amend the amendment of Mr. BUCHANAN, by striking out that clause in it which makes the cession of the road to the States conditional on their establishing toll-gates to keep it in repair.

The motion was decided in the negative.

Mr. VANCE offered the amendment which he had before submitted in Committee of the Whole.

Mr. V. briefly explained his reasons for offering the amendment. It was intended merely to secure to Ohio her rights, should the amendment of Mr. BUCHANAN succeed, against which, however, he protested, as proposing a cession which was not warranted.

The amendment of Mr. VANCE shared the same fate with that of Mr. ALEXANDER, being negatived without a count.

The question was put on the amendment of Mr. BUCHANAN, and decided by yeas 77, nays 118.

Mr. BUCHANAN then moved another amendment as follows:

Strike out all the bill and insert—

"Be it enacted, &c. That the President of the United States be, and he is hereby, authorized to

FEBRUARY, 1838.]

*Reprinting of Public Documents.*

[H. OF R.]

enter into such arrangements with the States of Maryland, Pennsylvania, Virginia, and Ohio, as he may deem necessary, for the purpose of having toll-gates erected, under the authority of the said several States, upon the Cumberland road; and collecting sufficient toll thereupon for its preservation and repair."

Mr. BUCHANAN said that his object was to get rid of the difficulties which attended the proposal to cede the road; and, in support of his amendment, he quoted a clause from the Message of President Monroe, sent to Congress at the time he rejected the Cumberland road bill.

Messrs. WEEKS and FLOYD spoke in opposition to the second amendment: whereupon, it was withdrawn by the mover.

Mr. GORHAM offered the amendment which he had proposed in Committee of the Whole.

The amendment was negatived—yeas 60, nays 129.

Mr. WICKLIFFE, believing that the bill could not pass both Houses if clogged with a provision for erecting of toll-gates upon the road, moved to strike out the first seven sections of the bill, and part of the eighth section, being all that part of it which relates to toll-gates and toll.

Mr. VANCE suggested that this was, in effect, the same proposition as had already been offered by Mr. GORHAM, and rejected.

The SPEAKER replied, that that was a matter for the House to judge on.

The form of the proposition was different, inasmuch as the amendment of the gentleman from Massachusetts went to strike out the whole of the bill after the enacting clause, and then to insert; whereas that of the gentleman from Kentucky proposes only to strike out a part of the bill, and to leave the latter part of it untouched. The proposition was, therefore, in order.

The amendment of Mr. WICKLIFFE was rejected.

Mr. ARCHER renewed the motion to amend the bill, which had been moved and withdrawn by Mr. BUCHANAN, not with any hope that it would be accepted, but merely to show what, in his judgment, was the course the House ought to pursue.

Mr. BARTLETT, after adverting to the time which had been consumed by this debate, the importance of the passage of the Appropriation Bills, and the few open days of the session which yet remained, now moved the previous question, and the call was sustained by the House—yeas 180, and the main question ordered.

The main question was then stated, in the following form: "Shall the bill be engrossed and read a third time?"

And it was decided in the affirmative as follows:

YEAS.—Messrs. Samuel Anderson, Armstrong, Bailey, Noyes Barber, Barker, Barlow, Barney, Bartlett, Bartley, I. C. Bates, Beecher, Blake, Brent,

Buckner, Burges, Butman, Carter, Chambers, Chilton, J. Clark, Condict, Coulter, Crockett, Crowninshield, John Davenport, Dickinson, Duncan, Dwight, Everett, Findlay, Fort, Forward, Gale, Green, Gurney, Hodges, Hunt, Ingersoll, Jennings, Johnson, Kerr, Lawrence, Leffler, Letcher, Little, Lock, Long, Lyon, Mallary, Martindale, Marvin, Maxwell, McDuffie, McHatton, McKean, McLean, Mercer, Merwin, Miller, Miner, John Mitchell, Muhlenberg, Newton, Orr, Pearce, Pierson, Plant, Ramsay, James F. Randolph, Reed, Richardson, Russell, Sawyer, Sergeant, Sinnickson, Sloane, Oliver H. Smith, Sprague, Sprigg, Stanberry, J. S. Stevenson, Stewart, Storrs, Strong, Swan, Swift, Sutherland, Tracy, Ebenezer Tucker, Vance, Van Rensselaer, Varnum, Vinton, Wales, Ward, Washington, Whipple, Whittlesey, James Wilson, Ephraim K. Wilson, Wingate, John Woods, Wolf, John C. Wright, Yancey—105.

NAYS.—Messrs. Addams, Alexander, Samuel C. Allen, Robert Allen, Alston, John Anderson, Archer, Philip P. Barbour, Barringer, Bassett, Belden, Bell, Blair, Brown, Bryan, Buchanan, Buck, Cambreleng, Carson, Claiborne, John C. Clark, Conner, Culpeper, Daniel, Thomas Davenport, John Davis, De Graff, Desha, Drayton, Earl, Floyd of Virginia, Floyd of Georgia, Fry, Garrow, Gilmer, Gorham, Hallock, Hall, Hamilton, Harvey, Haynes, Hinds, Hobbie, Hoffman, Ingham, Isacks, Johns, Keese, Kremer, Lecompte, Lea, Lumpkin, Magee, Marable, Markell, Martin, Maynard, McCoy, McIntire, McKee, Thomas R. Mitchell, Thomas P. Moore, Gabriel Moore, Nuckolls, O'Brien, Owen, Phelps, Polk, John Randolph, Ripley, Rives, Roan, Sheppard, Alexander Smith, Sterigere, Stower, Taber, Taliaferro, Taylor, Thompson, Trexvant, S. Tucker, Turner, Verplanck, Weeks, Wickliffe, Wilde, Williams, John J. Wood, Silas Wood, Woodcock—91.

#### SATURDAY, February 21.

The House was principally occupied this day on the different appropriation bills.

#### TUESDAY, February 24.

#### *Reprinting of Public Documents.*

The House proceeded to the consideration of the following resolution, reported by the Committee on the Library.

"Resolved, That such of the Executive Documents, and Legislative reports of the House of Representatives, as are important to be preserved, from the first to the tenth Congress, both inclusive, shall be selected by the Clerk of this House for publication, and shall be printed under his inspection and direction."

Mr. WARD offered an amendment to restrict the expenditure for that purpose to the sum of thirty thousand dollars. On this question,

Mr. WICKLIFFE said he was not only opposed to the original resolution, offered by the member of North Carolina, (Mr. BARRINGER,) but also to that reported by the Committee on the Library, even with the restriction upon it, offered by the member from New York, (Mr. WARD,) which proposes to limit the expenditure to thirty thousand dollars. Both propositions

contemplated an expenditure of public money, useless and wasteful, without any corresponding benefit. He regretted that the member from New York was not in his seat. If he were present, (said Mr. W.,) I would urge him to withdraw his amendment, to give place to one I have prepared, which contemplates an inquiry into the nature, character, importance, and probable cost, of printing such of the public documents of the twenty-six years, which it be deemed advisable to reprint.

I am (said Mr. W.) called upon to meet the proposition as it now stands; and I flatter myself that, if I can engage the attention of the members of this House for a short time, I shall be able to satisfy any and all, who are open to conviction, that this resolution ought not to pass. If it be deemed expedient to spend the small sum of thirty thousand dollars, because we may have it in the Treasury, perhaps by a little investigation we may be able to find some other object upon which to squander it, of more importance than reprinting the mass of trash which is to be found in the old, and, I might say, useless volumes of executive and legislative reports for the period of twenty-six years.

The member from North Carolina obtained the unanimous consent of the House to offer his resolution, upon stating that it was "a resolution which merely contemplated the printing of some documents which were necessary to be printed." For one, I consented that it might be introduced, under the impression that it related to some business before the House necessary to be acted upon. Amid the noise and bustle which is but too common in this Hall, when the resolution was read at the Clerk's table, I was only able to hear the words thirteenth Congress, inclusive, which induced me to read the resolution at the Clerk's table; and I confess my astonishment, when I learned, by its phraseology, that it contemplated a reprinting of the whole documents, executive and legislative, for twenty-six years, without regard to their importance, and reckless as to the expense.

It was then stated by a gentleman from Virginia, (Mr. FLOYD,) conjecturally, that the expense would be equal to three hundred thousand dollars. The gentleman from North Carolina gratuitously ascribed this estimate to me when he congratulated himself that the committee had so modified his proposition that the cost was estimated at thirty thousand dollars only. And this sum is too contemptible in the estimation of the gentleman to deserve serious consideration. His surprise is excited that a resolution of his, which only contemplates the expenditure of thirty thousand dollars, should have met with such serious opposition. I can assure the gentleman his surprise was not greater than mine, when I found that one portion of this House, by a unanimity unexampled, voted against the reference of his proposition to a committee for investigation. They seemed to have comprehended, by a species of instinct,

the object of the resolution, and negated the motion to refer. What was the resolution of the gentleman? I will again call his own attention and that of the House to it: "Resolved, that the usual number of the documents of the House of Representatives, Executive and Legislative, up to thirteenth Congress inclusive, be reprinted under the direction of the clerk of this House." He proposed to submit nothing to the discretion of the Clerk, or anybody else. His order is imperative; the whole were to be reprinted at an expense unlimited: not content with a sufficient number for the use of your library, lest the sum might not be sufficiently large, the gentleman desires to have six hundred and thirty copies of each document, making, according to the estimate of the committee, seven thousand five hundred and sixty volumes; a good fat job! but what of that? It is paid for out of the public purse. If I am not grossly deceived (said Mr. W.) in the estimate which I have made, the expense of the printing contemplated by the resolution as offered by the member from North Carolina, will greatly exceed any amount which he had contemplated. I am sure if that gentleman had correctly comprehended the extent of his resolution, he would not have been surprised that it met with "serious opposition" from some members in this House, who think it a duty which they owe to their constituents, to resist any and every proposition to increase the expenditures of this Government unnecessarily. I know it is an invidious task here for any member to resist a proposition which contemplates an expenditure of money. I have felt it a duty which I owed to those who have sent me here, on many occasions to oppose what I believed a waste of public money, when, by remaining silent, I might have rendered myself more acceptable to persons in and out of this Hall. I have endeavored to satisfy myself, since this subject was introduced, whether my first impressions were correct; and the more I have investigated it, the more I am convinced of its utter inutility.

There is no data by which to test the amount of expense, so correct as the sum expended for printing by Congress for the years embraced in the resolution. Upon reference to the Treasury Department, I am informed by a letter from the Register, that in consequence of the burning of the Treasury Office, in 1814, the amount paid for printing by the House of Representatives does not appear on the records of that office, prior to the thirteenth Congress. By the statement of that officer, which I now hold in my hand, the amount paid for printing for the House of Representatives alone, during that Congress, was thirty-three thousand nine hundred and fifty-five dollars and thirty-three cents. If you will make the deduction for the probable amount paid for printing bills and journals, say three thousand nine hundred and fifty-five dollars thirty-three cents, you will find that, if the resolution of the member from

FEBRUARY, 1829.]

*Reprinting of Public Documents.*

[H. OF R.]

North Carolina had been adopted, the expense of printing the documents contemplated by it, for that Congress alone, would have been thirty thousand dollars. We may fairly estimate the average costs for printing for the twenty-six years at ten thousand dollars per year. And if the gentleman will aid me by his knowledge of arithmetic, and multiply ten thousand dollars, by twenty-six years, he will discover, what I at first apprehended, that his resolution contemplated an expenditure of two hundred and sixty thousand dollars, to print old documents of no possible use but to encumber your shelves in the library. The gentleman, looking to the great public good to be effected by this measure, with some gravity inquires of us, why we "higgle" at this trifling, insignificant sum. Sir, if only the sum of thirty thousand dollars is to be expended, I would advise the gentleman (if he will pardon the use of his own word) to "higgle" a little while—long enough, at least, to satisfy us of the necessity and utility of the expenditure.

Upon a proposition involving the expenditure of so large a sum out of the contingent fund of this House, it might not be unworthy of our attention, or time needlessly expended, to retrospect the contingent expenses of this House, for the last seven years, to see with what rapidity they have increased. If we were to extend our inquiries farther, and examine the objects of expenditure, and the causes which have led to its increase, we shall find them mainly to be the quantity of useless printing of documents which are read by no one, and only serve the purposes of grocery and shop-keepers, after the adjournment of Congress.

In 1823, the contingent expenses of this House amounted to	\$37,844
Of which sum was paid for printing	22,314
1824, " " "	60,780
Printing	20,999
1825, " " "	46,061
1826, contingent	74,780
1827, paid for printing	42,000
1827, contingent	89,537
Printing	50,509
1828, contingent	84,639

I do not hazard much when I state to you the average amount per annum paid by this House for printing for the last seven years is equal to the average amount per annum for the first ten years of this Government, paid for the printing done for every department, executive, legislative, and judicial. How are you to check this evil? for an evil it is we must all admit. The only safe remedy is to be found in the good sense and sound discretion of the members of this House, by refusing to print every thing as a matter of course. As an humble member of a committee of this House, it was made my duty to investigate this subject of printing, and to suggest some remedy for the abuse. In order to diminish the expense, that much-abused Committee on Retrenchment re-

ported a resolution altering, in some manner, the mode of printing the public documents. When this resolution was presented, it was thought a small business; some gentlemen smiled as if their dignity contemned the effort; and the well-directed press of this place attempted to ridicule that portion of the labors of the committee. What has been the effect of that reform? Your clerk informs you, by a document on your table, that it will reduce the expense of printing annually about eight thousand dollars. That committee, in pursuing their labors at the present session, propose one other means of correcting the abuse, and that is, by a Standing Committee of this House documents and papers shall be first examined, who shall report upon the propriety of printing, and the number of copies to be printed.

WEDNESDAY, February 25.

*Reprinting of Public Documents.*

Mr. BARRINGER said: The whole substance of his resolution, as presented, and now modified, might be comprised within the limits of a nutshell. It was a mere question of expediency, involving no question of principle. It was simply whether documents shall be now reprinted, (for reprinted they certainly will be,) which formed a part of the history of the country; aye, the foundation—the very corner stone—the entire legislative history of the times to which they relate; containing, within their compass, all the principles of our polity, and without a knowledge of which, the subsequent superstructure is baseless, and without symmetry or proportion. It was a question, he repeated, whether the public records of the country should remain scattered and dispersed; a few in print, and a few in manuscript, and for ten years, from 1793 to 1808, according to the report, not the vestige of a manuscript copy, and whether that House, the Government, and the nation, should be without a single copy of many of them.

The question of their expense was merely incidental; although it was desirable, and comported with his own principles of action, that it should meet the strictest scrutiny. The subject of that scrutiny, he could not but felicitate himself, had been taken up by one who was not of the least celebrity in guarding against needless appropriations, and whose attention was peculiarly devoted to matters connected with the public expenditure. The formal preparations of the gentleman from Kentucky had certainly alarmed him. When he (Mr. B.) had witnessed the formal exhibition of volumes of books, and heard quoted minutes, reports, indexes, and copies of letters, he felt startled! He really began to apprehend that the gentleman was correct; he began to fear that he himself, though the mover of the resolution, did not understand the extent of it; that he could not, on reflection, approve of it; nay, in-

deed, he was almost led to believe that he was utterly ignorant of the subject in all its bearings and relations. When there appeared, too, on the part of the member from Kentucky, such a formidable array of figures; when it was shown, by an astute calculation, that the cost of carrying the resolution into effect would amount to two hundred and sixty thousand dollars, (\$260,000), he was, he repeated, ready to admit that, in bringing forward the resolution in question, he had not foreseen the enormous expense which the project involved, and his fears were, in no small degree, enhanced, by the gentleman's repeated professions of candor. But, (Mr. B. continued,) he was led, by all he saw, and all he heard, to review his premises; and it would be found, upon investigation, that the latter calculations of the member from Kentucky, (Mr. WICKLIFFE,) were as erroneous as his former statements were unfounded. The gentleman had formed his estimates by the expenses of a few particular years, and those years among the most recent of the operations of this Government, and long subsequent to the most extreme period to which his resolution proposed to confine its operations.

Sir, (continued Mr. B.,) the cost of printing, or the annual increase of cost for the last ten or five years, form no data from which to estimate the cost of printing the documents coming within the scope of my resolution. The gentleman admits that the annual increase has been equal to the annual cost of printing for the whole Government, for the first ten years. Did the gentleman see the conclusion which would necessarily result from such premises? and, that it puts his whole argument—with all its accompaniments—books, minutes, indexes, letters, all to flight; aye, with the whole array of figures, with which the gentleman so sedulously fortified himself? And to show most conclusively that such was the case, (Mr. B. said,) he would presently read to the House, as a part of his argument, a statement, which the gentleman from Massachusetts, (Mr. EVERETT,) Chairman of the Committee on the Library, had kindly prepared, and handed to him, showing that the expenses of printing for both Houses of the first ten years of the Government, or rather the ten years, from 1798 to 1808, did not exceed three thousand; nay, he would say not two thousand dollars per annum. The member from Kentucky had concluded his remarks upon the subject, by stating that ten, he had previously said twenty thousand dollars per year, would be necessary for the execution of the project, and he had triumphantly called upon him (Mr. B.) to multiply that sum by twenty-six years, and ascertain that it amounted to two hundred and sixty thousand dollars. Now, what was shown by the statement which he held in his hands? And what were the expenses of the Houses during ten years of the time referred to? It appeared that the "firewood, stationery, printing, and all other contingent expenses of the two Houses, amounted,

in 1798, to nine thousand five hundred and fifty-two dollars; in '94, to ten thousand dollars; in '95, to nine thousand five hundred dollars; in '96, to eleven thousand dollars; in '97, twelve thousand dollars; in '98, to thirteen thousand dollars; in '99, to thirteen thousand and five hundred dollars, &c. Previous to '93, the charges are not specifically stated;" but we are left to infer that they were within the limits of any given year stated. Deduct (Mr. B. continued) from these sums the probable amount of the items for firewood, for stationery, for all other contingent expenses; bear in mind, also, that the bills and journals are not to be included, and then say whether the expense of reprinting the documents, coming within the scope of my resolution, would be one-sixth, or even one-tenth of the whole charge! Would the utmost of the expense exceed one thousand dollars per annum? It was impossible that it could; and he wondered that the gentleman from Kentucky, who, in the course of his observations, had so emphatically disclaimed all reference to persons, should have suffered the subject to remain uninvestigated in that point of view, and should have made such an exaggerated assertion, (unintentional, no doubt,) as that the cost of the printing would amount to two hundred and sixty thousand dollars.

MONDAY, March 2.

*The Cumberland Road.*

The Cumberland road bill was returned from the Senate with amendments, which went to strike out all that part of the bill which provides for the erection of toll-gates.

Mr. MERCE moved that this House do disagree to the amendments of the Senate.

Mr. STEWART earnestly opposed this motion. If the House disagree, the appropriation will be lost, and the road become impassable. He read a letter from the Postmaster General, showing that the mail and travel were last Spring frequently forced off the road, through farms. The friends of the road had done all they could to get up gates, but had failed. This money would now do more good than double the amount a year hence. To reject the bill would be equivalent to a vote of non-intercourse between the East and West. He described the present condition of the road, and entreated its friends, East and West, to concur in the amendments of the Senate, and save the road from total destruction.

Mr. STORRS opposed any farther appropriation for the repair of the road, unless gates should be allowed, as the means of providing for keeping it in repair.

Mr. BARNEY took the same ground as Mr. STEWART.

Mr. BUCHANAN offered an amendment proposing to invest the President of the United States with power to make an arrangement

MARCH, 1839.]

*Thanks to the Speaker.*

[H. OF R.]

with the States of Pennsylvania, Maryland, and Virginia, for the erection of gates and collection of toll.

Mr. B. said he felt as friendly as any gentleman in the House to the appropriation of money for the extension of the Cumberland road to the Mississippi. He would state the single reason why he felt himself compelled—he would say reluctantly compelled—to vote against this bill. The House had recently determined that they would keep the Cumberland road in repair by erecting toll-gates upon it, under the authority of the Federal Government. As long as the pretension continued to be set up, which he believed to be both dangerous and unconstitutional, he could not, nor would not, vote for the construction of any road intended, after its completion, to be thus placed under the jurisdiction of the United States.

Mr. VANCE opposed the amendments, on the ground that the House could not authorize the President to do what it had decided itself to have no right to do. Mr. V. then demanded the previous question, which was sustained by the House, and the yeas and nays were demanded by Mr. FORWARD, and ordered.

The main question was finally put, as follows: "Will the House disagree to the amendments of the Senate to this bill?" And decided by yeas and nays, as follows—yeas 52, nays 80.

So the House refused to disagree, and therefore the Senate's amendments were agreed to.

TUESDAY, MARCH 3.

*Thanks to the Speaker.*

Mr. ALLEN, of Massachusetts, offered the following:

*Resolved*, That the thanks of this House be presented to the Honorable ANDREW STEVENSON, for the able, prompt, and dignified manner with which he has presided over its deliberations, and performed the important and arduous duties of the Chair.

Mr. BRENT inquired whether the ordinary rules of order applied to the last day of the session? The Chair decided that they did. Thereupon, Mr. BARTLETT objected to the reception of the resolution, as not in order, and moved to suspend the rule with respect to the orders of the day.

The CHAIR (then temporarily occupied by Mr. P. P. BARBOUR) said that, if the rules of order were to be strictly enforced the motion of the gentleman from Massachusetts would, of course, be out of order. But, it was the view of the Chair, that the universal practice of the House had decided that such a resolution might be received on the last day of the session, though not strictly in order, and that, therefore, the resolution would be received.

Mr. TALLAFERRO suggested that the rules of order, resting as they did on the joint action of both Houses, terminated, of course, at 12 o'clock last night, when the action of the two Houses, in respect to each other, also terminated.

Mr. VANCE observed that the Chair had just decided that the rules of order do apply to the last day of the session. If so, they ought to apply equally on both sides; if, under the rules, the discussion of the resolution of the gentleman from North Carolina had been cut short at the expiration of the hour, the same rules pervade the offering of a new resolution unless unanimous consent were given, or the operation of the rules suspended by the will of the House.

Mr. BARBOUR said he must arrest the course of these remarks, unless an appeal was taken from the decision of the Chair.

Mr. VANCE declined to appeal, but Mr. BRENT did appeal to the House.

Mr. BRENT supported the appeal by a reference to the case of Mr. WRIGHT, of New York, which took place last session. It had always been the custom, when such a resolution as this was presented, for the mover to ask and obtain leave from the House to offer it. The Journals would show that Mr. W. had done so, and that leave had been granted. Leave was always given, as of course, but it was done by an act of courtesy, and not a concession of right.

Mr. POLK referred to a fact which took place last Congress, and furnished a case precisely analogous to the present, when a resolution offered by Mr. SAUNDERS, on the subject of printing, had regularly occupied the House every morning for a long course of time; and a gentleman from Ohio (Mr. WRIGHT) had spoken four or five mornings in relation to it, and after his remarks had been cut short by the expiration of the hour, and he, if any one, was entitled to the floor, a resolution of thanks to the Speaker had, nevertheless, been received and adopted.

Mr. ALLEN said that, if leave had been asked, the resolution could have been received only by courtesy, and the usage of the House had established the precedent that a resolution of this peculiar character was to be received as of course, at the close of the session. Mr. A. adverted to the closing scenes of a session as calling, in an especial manner, for the exercise of good feelings; and, as the resolution he had offered was usual and customary, he hoped it would be received without farther debate.

Mr. EVERETT said he hoped the appeal would not be persevered in, as, if it were, that it would not be sustained. The matter had been put by the Chair on the right ground; the receiving such a resolution was a matter of courtesy. A member, in rising to offer it, would say, of course, "with the leave of the House, I offer the following resolution;" but the leave was a matter of course. As to the resolution offered on the subject of reprinting the documents, he was as friendly to it as the gentleman from Ohio (Mr. VANCE) could be; but he believed it was impracticable, under existing circumstances, to effect its adoption, and, in the mean while, he was favorable to the present resolution also. He had given this explanation.

H. OF R.]

*Adjournment.*

[MARCH, 1839.]

tion of his views, because he feared that the performance of what he considered a domestic duty [he was understood as alluding to his attendance on the funeral of Mrs. Barnard] would call him from the House before the final vote on this resolution.

Mr. HAMILTON said, that the strictest rules intended for the government of gentlemen were always subject to be modified by courtesy, when the modification of them violated no established right. Since he had enjoyed the honor of a seat on that floor, he had known instances, where, after the orders of the day had been proclaimed, at a late hour in the afternoon, and the House had declined going into committee, a resolution of this kind had been allowed to be introduced. It referred to a gentleman then in the Chair, (Mr. TAYLOR,) for whom he was free to confess he had no political predilections, and for whom he had not voted. This he considered as strong ground of precedent. During the first hour, the Speaker would, of course, be himself in the Chair, and there would be an obvious indelicacy in receiving a resolution of this kind; but after the House got to business, the Speaker frequently retired from the Chair, and then it might be offered with propriety. As to the subject-matter of the resolution itself, it was perfectly in order for any member to oppose it if he thought the thanks not merited, and, in so doing, to state the cases in which he supposed the Speaker to have acted with impropriety. If such an issue were made on the present occasion, he hoped that no gentleman who might apprehend that there had been partiality on the part of the Speaker, would shrink from performing his duty with firmness.

Mr. BARNEY suggested the propriety of withdrawing the appeal, and adverted, with his usual urbanity, to the desirableness of entire harmony and peace at the parting moments of the session.

The question was put on the appeal, and the decision of the Chair was affirmed, by yeas and nays—94 to 42.

And the question was taken on the proposed vote of thanks, and decided in the affirmative.

#### *Panama Documents.*

A Message in writing was received from the President of the United States, transmitting to Congress a copy of the instructions prepared by the Secretary of State, and furnished to the Ministers of the United States appointed to attend the assembly of American Plenipotentiaries, first held at Panama, and thence transferred to Tacubaya.

Mr. TAYLOR moved to lay the Message and documents on the table, and to print them.

On motion of Mr. HAMILTON, the question was divided.

The motion to lay on the table was agreed to.

Mr. STORRS then adverted to the obligation imposed on the President to make communications on such subjects as concern the Union,

and to recommend to the consideration of Congress such measures as he shall judge necessary.

Mr. HAYNES was opposed to the printing.

Mr. HAMILTON said that this was a most extraordinary motion, to print a nonentity. We have not the instructions before us, but have to obtain them from the Senate. What power have we to obtain them from the Senate, at the moment we are going out of political existence? Perhaps the confidential seal of that body was placed upon the documents. He thought the Panama mission was injured, and that we had attended its funeral—that it had gone to the tomb of all the Capulets. There had been an attempt to entrap the other House, and it was a good scheme to send it to this House. But he hoped we should not be twice caught in the same snare. He called upon the House to come up and vote, and asked for the yeas and nays, which were ordered.

Mr. THOMPSON moved to lay the motion to print on the table.

The yeas and nays were ordered: decided in the affirmative, as follows:

YEAS.—Messrs. Addams, Alexander, Robert Allen, Alston, John Anderson, John S. Barbour, Philip P. Barbour, Barlow, Barringer Bassett, Blair, Cambreleng, Carson, John C. Clark, Conner, Daniel, Warren R. Davis, Desha, Duncan, Earl, Findlay, Floyd of Virginia, Floyd of Georgia, Forward, Fry, Garrow, Green, Hallock, Hall, Hamilton, Harvey, Haynes, Hinds, Hobbie, Hoffman, Holmes, Isaacs, Jennings, Keese, Kremer, Lecompte, Lea, Livingston, Magee, Marable, McCoy, McDuffie, McHatton, McKean, Miller, John Mitchell, Thomas P. Moore, Muhlenberg, Orr, Owen, Polk, Ramsey, Roane, Sawyer, Shepperd, Stanberry, Stevenson, Stower, Taber, Thompson, Trezvant, Turner, Verplanck, Ward, Wickliffe, John J. Wood, Wolf, Yancey—73.

NAYS.—Messrs. Samuel A. Allen, Samuel Anderson, Archer, Armstrong, Bailey, Baldwin, Bartlett, Bartley, Isaac C. Bates, Edward Bates, Belden, Blake, Brent, Bryan, Buckner, Burges, Carter, James Clark, Condict, Coulter, Culpeper, Drayton, Dwight, Fort, Healey, Hunt, Johns, Lawrence, Letcher, Little, Locke, Long, Lyon, Markell, Martindale, Marvin, McIntire, McLean, Miner, Thomas R. Mitchell, Newton, Nuckolls, Pearce, Reed, Richardson, Russell, Sergeant, Sloane, Smith, Sprague, Stewart, Storrs, Strong, Taliaferro, Taylor, Tracy, Varnum, Vinton, Weems, Whipple, Whittlesey, Wilde, Williams, J. Wilson, J. Woods, Woodcock, John C. Wright—37.

#### *Adjournment.*

Mr. WARD moved the usual resolution, for the appointment of a committee to wait on the President of the United States, and to inform him that, if he had no further message to send to them, the two Houses were ready to adjourn. The resolution was agreed to, and Mr. WARD and Mr. BATES, of Massachusetts, were appointed a committee on the part of the House of Representatives.

Mr. WARD, from the Committee of this House, appointed to wait on the President, sub-

MARCH, 1839.]

Adjournment.

[H. OF R.]

sequently reported that the committee had performed that duty, and had received for answer, that he had no other communication to make to this House, but to convey to every individual member his sincere wish of health and happiness.

A Message was sent to the Senate to inform it that this House was about to adjourn.

Mr. HAYNES moved that this House do now adjourn; which being agreed to,

The SPEAKER adjourned the House in the following terms:

GENTLEMEN: The moment having arrived in which I am about to lay down the trust with which you have honored me, and the connections which have existed between us are to cease, I should do violence to the feelings which now warm my heart, if I did not seize this occasion to express my deep sense of gratitude for your past confidence and kindness, and the flattering proof just given, of your continued approbation and favor.

Two years have elapsed since I had the honor of being placed in this chair. This period of service has been distinguished by events and circumstances well calculated to render this station, not only one of extreme delicacy, but severe responsibility and labor. Steady and lasting applause; permanent and solid reputation; can only be acquired in a station

so exalted, by an undeviating adherence to elevated principles, and by a manly, upright, and independent discharge of its high and important functions. Under the influence of these principles, and a just diffidence in my own qualifications, I came to this chair, with a settled determination to pursue that course which should secure to me the testimony of my own mind, and the approbation of every just and liberal man. That my efforts have not been wholly unavailing, I am this day assured by the renewed evidence of the kindness and justice of the House. I receive it in the same spirit of kindness in which it has been offered, and shall cherish it through life with feelings of profound respect and the deepest gratitude.

If, gentlemen, in the discharge of our multifarious duties; if, amid the storm and strife of passion or of party; if, under the influence of momentary excitement or irritation, any thing unkind should have been said or done, let us, I entreat you, endeavor to forget and forgive it, and let our separation (with many of us long, and with some of us forever) be in the spirit of peace and good will, and as becomes the Representatives of virtuous and enlightened freemen. You will carry with you, gentlemen, my prayers for continued blessings upon our beloved country, and my best wishes for your health, prosperity, and happiness.

It remains for me only to announce, that this House stands adjourned *sine die*.



## TWENTY-FIRST CONGRESS.—FIRST SESSION.

Executive Government for the Eleventh Presidential Term commencing 4th March, 1829, and ending 3d Marc, 1833.

ANDREW JACKSON, of Tennessee, *President*.

JOHN C. CALHOUN, of South Carolina, *Vice President*. (Resigned 28th December, 1832.)

*Secretaries of State*.—MARTIN VAN BUREN, of New York. Nominated and confirmed 6th March, 1829. Resigned.—EDWARD LIVINGSTON, of Louisiana, [Appointed 24th May, 1831, in recess of the Senate. Nomination confirmed 12th January, 1832.]

*Secretaries of the Treasury*.—SAMUEL D. INGHAM, of Pennsylvania. Nominated and confirmed 6th March, 1829. Resigned.—LOUIS McLANE, of Delaware. [Appointed 8th August, 1831, in recess of the Senate; nomination confirmed 12th January, 1832.]

*Secretaries of War*.—JOHN H. EATON, of Tennessee, Nominated and confirmed 9th March, 1829. Resigned.—LEWIS CASS, of Ohio. [Appointed 7th August, 1831, in recess of the Senate. Nomination confirmed 30th December, 1831.]

*Secretaries of the Navy*.—JOHN BRANCH, of North Carolina. Nominated and confirmed 9th March, 1829. Resigned.—LEVI WOODBURY, of New Hampshire. [Appointed 23d May, 1831, in recess of the Senate. Nomination confirmed 27th December, 1831.]

*Postmaster General*.—WILLIAM T. BARRY, of Kentucky. Nominated and confirmed 9th March, 1829.

*Attornies General*.—JOHN MACPHERSON BERRIE, of Georgia. Nominated and confirmed 9th March, 1829. Resigned.—ROGER BROOKE TANEY, of Maryland. [Appointed 20th July, 1831, in recess of the Senate.]

## PROCEEDINGS IN THE SENATE.\*

MONDAY, December 7, 1829.

At noon, the Honorable SAMUEL SMITH, of Maryland, President *pro tempore* of the Senate, took the chair. The roll of Senators having been called over by WALTER LOWRIE, Esq., Secretary of the Senate, it appeared that thirty-five members were present.

The usual message was sent to the House of Representatives, notifying that a quorum of the Senate had assembled.

### \* LIST OF MEMBERS OF THE SENATE.

*Maine*.—John Holmes, Peleg Sprague.  
*New Hampshire*.—Samuel Bell, Levi Woodbury.  
*Massachusetts*.—Nathaniel Silsbee, Daniel Webster.  
*Connecticut*.—Samuel A. Foot, Calvin Willey.  
*Rhode Island*.—Nehemiah R. Knight, Asahel Bobbins.  
*Vermont*.—Dudley Chase, Horatio Seymour.  
*New York*.—Nathan Sanford, Charles E. Dudley.  
*New Jersey*.—Theodore Frelinghuysen, Mahlon Dickerson.  
*Pennsylvania*.—William Marks, Isaac D. Barnard.  
*Delaware*.—John M. Clayton. [One vacancy.]  
*Maryland*.—Samuel Smith, Ezekiel F. Chambers.

Mr. WHITE and Mr. SANFORD were then appointed a committee to join the committee of the House of Representatives, to inform the President of the United States that quorums of the two Houses had assembled, &c.

TUESDAY, December 8.

Mr. WHITE reported from the Joint Committee, that they had, according to order, waited on the President of the United States,

*Virginia*.—L. W. Tazewell, John Tyler.  
*North Carolina*.—James Iredell. [One vacancy.]  
*South Carolina*.—William Smith, Robert Y. Hayne.  
*Georgia*.—George M. Troup, John Forsyth.  
*Kentucky*.—John Rowan, George M. Bibb.  
*Tennessee*.—Hugh L. White, Felix Grundy.  
*Ohio*.—Benjamin Ruggles, Jacob Burnet.  
*Louisiana*.—Josiah S. Johnston, Edward Livingston.  
*Indiana*.—William Hendricks, James Noble.  
*Mississippi*.—Powhattan Ellis. [One vacancy.]  
*Illinois*.—Elias K. Kane, John McLane.  
*Alabama*.—John McKinley, William B. King.  
*Missouri*.—David Barton, Thomas H. Benton.

DECEMBER, 1829.]

*The President's Message.*

[SENATE.]

who replied that he would, to-day, at 12 o'clock, make a communication to each House of Congress.

Soon after which, a written Message was received from the President of the United States, by Mr. DONELSON, his Secretary.

*Fellow-Citizens of the Senate  
and of the House of Representatives:*

It affords me pleasure to tender my friendly greetings to you on the occasion of your assembling at the Seat of Government, to enter upon the important duties to which you have been called by the voice of our countrymen. The task devolves on me, under a provision of the constitution, to present to you, as the Federal Legislature of twenty-four sovereign States, and twelve millions of happy people, a view of our affairs; and to propose such measures as, in the discharge of my official functions, have suggested themselves as necessary to promote the objects of our Union.

In communicating with you, for the first time, it is, to me, a source of unfeigned satisfaction, calling for mutual gratulation and devout thanks to a benign Providence, that we are at peace with all mankind, and that our country exhibits the most cheering evidence of general welfare and progressive improvement. Turning our eyes to other Nations, our great desire is to see our brethren of the human race secured in the blessings enjoyed by ourselves, and advancing in knowledge, in freedom, and in social happiness.

Our foreign relations, although in their general character pacific and friendly, present subjects of difference between us and other powers, of deep interest, as well to the country at large, as to many of our citizens. To effect an adjustment of these shall continue to be the object of my earnest endeavors; and notwithstanding the difficulties of the task, I do not allow myself to apprehend unfavorable results. Blessed as our country is with every thing which constitutes national strength, she is fully adequate to the maintenance of all her interests. In discharging the responsible trust confided to the Executive in this respect, it is my settled purpose to ask nothing that is not clearly right, and to submit to nothing that is wrong; and I flatter myself, that, supported by the other branches of the Government, and by the intelligence and patriotism of the people, we shall be able, under the protection of Providence, to cause all our just rights to be respected.

Of the unsettled matters between the United States and other powers, the most prominent are those which have, for years, been the subject of negotiation with England, France, and Spain. The late periods at which our Ministers to those Governments left the United States, render it impossible, at this early day, to inform you of what has been done on the subjects with which they have been respectively charged. Relying upon the justice of our views in relation to the points committed to negotiation, and the reciprocal good feeling which characterizes our intercourse with those nations, we have the best reason to hope for a satisfactory adjustment of existing differences.

With Great Britain, alike distinguished in peace and war, we may look forward to years of peaceful, honorable, and elevated competition. Every thing in the condition and history of the two nations is calculated to inspire sentiments of mutual respect,

and to carry conviction to the minds of both, that it is their policy to preserve the most cordial relations: such are my own views, and it is not to be doubted that such are also the prevailing sentiments of our constituents. Although neither time nor opportunity has been afforded for a full development of the policy which the present Cabinet of Great Britain designs to pursue towards this country, I indulge the hope that it will be of a just and pacific character; and if this anticipation be realized, we may look with confidence to a speedy and acceptable adjustment of our affairs.

Under the Convention for regulating the reference to arbitration of the disputed points of boundary, under the fifth article of the Treaty of Ghent, the proceedings have hitherto been conducted in that spirit of candor and liberality which ought ever to characterize the acts of sovereign States, seeking to adjust, by the most unexceptionable means, important and delicate subjects of contention. The first statements of the parties have been exchanged, and the final replication, on our part, is in a course of preparation. This subject has received the attention demanded by its great and peculiar importance to a patriotic member of this Confederacy. The exposition of our rights, already made, is such as, from the high reputation of the commissioners by whom it has been prepared, we had a right to expect. Our interests at the court of the Sovereign who has evinced his friendly disposition, by assuming the delicate task of arbitration, have been committed to a citizen of the State of Maine, whose character, talents, and intimate acquaintance with the subject, eminently qualify him for so responsible a trust. With full confidence in the justice of our cause, and in the probity, intelligence, and uncompromising independence of the illustrious arbitrator, we can have nothing to apprehend from the result.

From France, our ancient ally, we have a right to expect that justice which becomes the Sovereign of a powerful, intelligent, and magnanimous people. The beneficial effects produced by the Commercial Convention of 1822, limited as are its provisions, are too obvious not to make a salutary impression upon the minds of those who are charged with the administration of her Government. Should this result induce a disposition to embrace, to their full extent, the wholesome principles which constitute our commercial policy, our Minister to that Court will be found instructed to cherish such a disposition, and to aid in conducting it to useful practical conclusions. The claims of our citizens for depredations upon their property, long since committed, under the authority, and, in many instances, by the express direction of the then existing Government of France, remain unsatisfied; and must, therefore, continue to furnish a subject of unpleasant discussion, and possible collision between the two Governments. I cherish, however, a lively hope, founded as well on the validity of those claims, and the established policy of all enlightened Governments, as on the known integrity of the French monarch, that the injurious delays of the past will find redress in the equity of the future. Our Minister has been instructed to press these demands on the French Government with all the earnestness which is called for by their importance and irrefutable justice; and in a spirit that will evince the respect which is due to the feelings of those from whom the satisfaction is required.

Our Minister recently appointed to Spain, has been authorized to assist in removing evils alike injurious to both countries, either by concluding a Commercial Convention upon liberal and reciprocal terms; or by urging the acceptance, in their full extent, of the mutually beneficial provisions of our navigation acts. He has also been instructed to make a further appeal to the justice of Spain, in behalf of our citizens, for indemnity for spoiliations upon our commerce, committed under her authority—an appeal which the pacific and liberal course observed on our part, and a due confidence in the honor of that Government, authorize us to expect will not be made in vain.

With other European Powers our intercourse is on the most friendly footing. In Russia, placed by her territorial limits, extensive population, and great power, high in the rank of nations, the United States have always found a steadfast friend. Although her recent invasion of Turkey awakened a lively sympathy for those who were exposed to the desolations of war, we cannot but anticipate that the result will prove favorable to the cause of civilization, and to the progress of human happiness. The treaty of peace, between these powers, having been ratified, we cannot be insensible to the great benefit to be derived to the commerce of the United States, from unlocking the navigation of the Black Sea, a free passage into which is secured to all merchant vessels bound to ports of Russia under a flag of peace with the Porte. This advantage, enjoyed upon conditions, by most of the powers of Europe, has hitherto been withheld from us. During the past Summer, an antecedent, but unsuccessful attempt to obtain it, was renewed, under circumstances which promised the most favorable results. Although these results have fortunately been thus in part attained, further facilities to the enjoyment of this new field for the enterprise of our citizens are, in my opinion, sufficiently desirable to ensure to them our most zealous attention.

Our trade with Austria, although of secondary importance, has been gradually increasing, and is now so extended as to deserve the fostering care of the Government. A negotiation, commenced and nearly completed with that power by the late Administration, has been consummated by a treaty of amity, navigation, and commerce, which will be laid before the Senate.

During the recess of Congress, our diplomatic relations with Portugal have been resumed. The peculiar state of things in that country caused a suspension of the recognition of the Representative who presented himself, until an opportunity was had to obtain from our official organ there, information regarding the actual, and, as far as practicable, prospective condition of the authority by which the representative in question was appointed. This information being received, the application of the established rule of our Government, in like cases, was no longer withheld.

Considerable advances have been made during the present year, in the adjustment of claims of our citizens upon Denmark for spoiliations; but all that we have a right to demand from that Government, in their behalf, has not yet been conceded. From the liberal footing, however, upon which this subject has, with the approbation of the claimants, been placed by the Government, together with the uniformly just and friendly disposition which has been evinced by His Danish Majesty, there is a reason-

able ground to hope that this single subject of difference will speedily be removed.

Our relations with the Barbary Powers continue, as they have long been, of the most favorable character. The policy of keeping an adequate force in the Mediterranean, as security for the continuance of this tranquillity, will be persevered in; as well as a similar one for the protection of our commerce and fisheries in the Pacific.

The Southern Republics of our own hemisphere have not yet realized all the advantages for which they have been so long struggling. We trust, however, that the day is not distant when the restoration of peace and internal quiet, under permanent systems of Government, securing the liberty, and promoting the happiness of the citizens, will crown with complete success their long and arduous efforts in the cause of self-government, and enable us to salute them as friendly rivals in all that is truly great and glorious.

The recent invasion of Mexico, and the effect thereby produced upon her domestic policy, must have a controlling influence upon the great question of South American emancipation. We have seen the fell spirit of civil dissension rebuked, and, perhaps, forever stifled in that republic, by the love of independence. If it be true, as appearances strongly indicate, that the spirit of independence is the master spirit; and if a corresponding sentiment prevails in the other States, this devotion to liberty cannot be without a proper effect upon the councils of the mother country. The adoption, by Spain, of a pacific policy towards her former colonies—an event consoling to humanity, and a blessing to the world, in which she herself cannot fail largely to participate—may be most reasonably expected.

The claims of our citizens upon the South American Governments, generally, are in a train of settlement; while the principal part of those upon Brazil have been adjusted; and a Decree in Council, ordering bonds to be issued by the Minister of the Treasury for their amount, has received the sanction of his Imperial Majesty. This event, together with the exchange of the ratifications of the Treaty negotiated and concluded in 1828, happily terminates all serious causes of difference with that power.

Measures have been taken to place our commercial relations with Peru upon a better footing than that upon which they have hitherto rested; and, if met by a proper disposition on the part of that Government, important benefits may be secured to both countries.

Deeply interested as we are in the prosperity of our sister Republics, and more particularly in that of our immediate neighbor, it would be most gratifying to me, were I permitted to say, that the treatment which we have received at her hands has been as universally friendly as the early and constant solicitude manifested by the United States for her success gave us a right to expect. But it becomes my duty to inform you that prejudices, long indulged, by a portion of the inhabitants of Mexico against the Envoy Extraordinary and Minister Plenipotentiary of the United States, have had an unfortunate influence upon the affairs of the two countries; and have diminished that usefulness to his own which was justly to be expected from his talents and zeal. To this cause, in a great degree, is to be imputed the failure of several measures

DECEMBER, 1829.]

*The President's Message.*

[SENATE.]

equally interesting to both parties; but particularly that of the Mexican Government to ratify a treaty negotiated and concluded in its own capital and under its own eye. Under these circumstances, it appeared expedient to give to Mr. Poinsett the option either to return or not, as, in his judgment, the interest of his country might require; and instructions to that end were prepared; but, before they could be despatched, a communication was received from the Government of Mexico, through its *Chargé d'Affaires* here, requesting the recall of our Minister. This was promptly complied with; and a representative, of a rank corresponding with that of the Mexican Diplomatic Agent near this Government, was appointed. Our conduct towards that Republic has been uniformly of the most friendly character, and, having thus removed the only alleged obstacle to harmonious intercourse, I cannot but hope that an advantageous change will occur in our affairs.

In justice to Mr. Poinsett, it is proper to say, that my immediate compliance with the application for his recall, and the appointment of a successor, are not to be ascribed to any evidence that the imputation of an improper interference by him, in the local politics of Mexico, was well founded; nor to a want of confidence in his talents or integrity; and to add, that the truth of that charge has never been affirmed by the Federal Government of Mexico, in its communications with this.

I consider it one of the most urgent of my duties to bring to your attention the propriety of amending that part of our constitution which relates to the election of President and Vice President. Our system of government was, by its framers, deemed an experiment; and they, therefore, consistently provided a mode of remedying its defects.

To the people belongs the right of electing their Chief Magistrate: it was never designed that their choice should, in any case, be defeated, either by the intervention of electoral colleges, or by the agency confided, under certain contingencies, to the House of Representatives. Experience proves, that, in proportion as agents to execute the will of the people are multiplied, there is danger of their wishes being frustrated. Some may be unfaithful: all are liable to err. So far, therefore, as the people can, with convenience, speak, it is safer for them to express their own will.

The number of aspirants to the Presidency, and the diversity of the interests which may influence their claims, leave little reason to expect a choice in the first instance: and, in that event, the election must devolve on the House of Representatives, where, it is obvious, the will of the people may not be always ascertained; or, if ascertained, may not be regarded. From the mode of voting by States, the choice is to be made by twenty-four votes; and it may often occur, that one of these may be controlled by an individual representative. Honors and offices are at the disposal of the successful candidate. Repeated ballotings may make it apparent that a single individual holds the cast in his hand. May he not be tempted to name his reward? But even without corruption—supposing the probity of the Representative to be proof against the powerful motives by which he may be assailed—the will of the people is still constantly liable to be misrepresented. One may err from ignorance of the wishes of his constituents; another from a conviction that it is his duty to be governed by his own judgment

of the fitness of the candidates: finally, although all were inflexibly honest—all accurately informed of the wishes of their constituents—yet, under the present mode of election, a minority may often elect the President; and when this happens, it may reasonably be expected that efforts will be made on the part of the majority to rectify this injurious operation of their institutions. But although no evil of this character should result from such a perversion of the first principle of our system—that *the majority is to govern*—it must be very certain that a President elected by a minority cannot enjoy the confidence necessary to the successful discharge of his duties.

In this, as in all other matters of public concern, policy requires that as few impediments as possible should exist to the free operation of the public will. Let us, then, endeavor so to amend our system, as that the office of Chief Magistrate may not be conferred upon any citizen but in pursuance of a fair expression of the will of the majority.

I would therefore recommend such an amendment of the constitution as may remove all intermediate agency in the election of President and Vice President. The mode may be so regulated as to preserve to each State its present relative weight in the election; and a failure in the first attempt may be provided for, by confining the second to a choice between the two highest candidates. In connection with such an amendment, it would seem advisable to limit the service of the Chief Magistrate to a single term, of either four or six years. If, however, it should not be adopted, it is worthy of consideration whether a provision disqualifying for office the Representatives in Congress on whom such an election may have devolved, would not be proper.

While members of Congress can be constitutionally appointed to offices of trust and profit, it will be the practice, even under the most conscientious adherence to duty, to select them for such stations as they are believed to be better qualified to fill than other citizens; but the purity of our Government would doubtless be promoted by their exclusion from all appointments in the gift of the President in whose election they may have been officially concerned. The nature of the judicial office, and the necessity of securing in the Cabinet and in diplomatic stations of the highest rank, the best talents and political experience, should, perhaps, except these from the exclusion.

There are perhaps few men who can for any great length of time enjoy office and power without being more or less under the influence of feelings unfavorable to a faithful discharge of their public duties. Their integrity may be proof against improper considerations immediately addressed to themselves; but they are apt to acquire a habit of looking with indifference upon the public interests, and of tolerating conduct from which an unpractised man would revolt. Office is considered as a species of property; and Government rather as a means of promoting individual interest, than as an instrument created solely for the service of the people. Corruption in some, and, in others, a perversion of correct feelings and principles, divert Government from its legitimate ends, and make it an engine for the support of the few at the expense of the many. The duties of all public officers are, or, at least, admit of being made, so plain and simple, that men of intelligence may readily qualify

themselves for their performance; and I cannot but believe that more is lost by the long continuance of men in office, than is generally to be gained by their experience. I submit, therefore, to your consideration, whether the efficiency of the Government would not be promoted, and official industry and integrity better secured, by a general extension of the law which limits appointments to four years.

In a country where offices are created solely for the benefit of the people, no one man has any more intrinsic right to official station than another. Offices were not established to give support to particular men, at the public expense. No individual wrong is therefore done by removal, since neither appointment to, nor continuance in office, is matter of right. The incumbent became an officer with a view to public benefits; and when these require his removal, they are not to be sacrificed to private interests. It is the people, and they alone, who have a right to complain, when a bad officer is substituted for a good one. He who is removed has the same means of obtaining a living that are enjoyed by the millions who never held office. The proposed limitation would destroy the idea of property, now so generally connected with official station; and, although individual distress may be sometimes produced, it would, by promoting that rotation which constitutes a leading principle in the republican creed, give healthful action to the system.

No very considerable change has occurred, during the recess of Congress, in the condition of either our Agriculture, Commerce, or Manufactures. The operation of the Tariff has not proved so injurious to the two former, nor as beneficial to the latter, as was anticipated. Importations of foreign goods have not been sensibly diminished, while domestic competition, under an illusive excitement, has increased the production much beyond the demand for home consumption. The consequences have been low prices, temporary embarrassment, and partial loss. That such of our manufacturing establishments as are based upon capital, and are prudently managed, will survive the shock, and be ultimately profitable, there is no good reason to doubt.

To regulate its conduct, so as to promote equally the prosperity of these three cardinal interests, is one of the most difficult tasks of Government; and it may be regretted that the complicated restrictions which now embarrass the intercourse of nations, could not by common consent be abolished, and commerce allowed to flow in those channels to which individual enterprise—always its surest guide—might direct it. But we must ever expect selfish legislation in other nations, and are therefore compelled to adapt our own to their regulations, in the manner best calculated to avoid serious injury, and to harmonize the conflicting interests of our agriculture, our commerce, and our manufactures. Under these impressions, I invite your attention to the existing Tariff, believing that some of its provisions require modification.

The general rule to be applied in graduating the duties upon articles of foreign growth or manufacture, is that which will place our own in fair competition with those of other countries; and the inducements to advance even a step beyond this point, are controlling in regard to those articles which are of primary necessity in time of war. When we reflect upon the difficulty and delicacy of this operation, it is important that it should never

be attempted but with the utmost caution. Frequent legislation in regard to any branch of industry, affecting its value, and by which its capital may be transferred to new channels, must always be productive of hazardous speculation and loss.

In deliberating, therefore, on these interesting subjects, local feelings and prejudices should be merged in the patriotic determination to promote the great interests of the whole. All attempts to connect them with the party conflicts of the day, are necessarily injurious, and should be discountenanced. Our action upon them should be under the control of higher and purer motives. Legislation, subjected to such influences, can never be just, and will not long retain the sanction of a people whose active patriotism is not bounded by sectional limits, nor insensible to that spirit of concession and forbearance which gave life to our political compact, and still sustains it. Discarding all calculations of political ascendancy, the North, the South, the East, and the West, should unite in diminishing any burthen, of which either may justly complain.

The agricultural interest of our country is so essentially connected with every other, and so superior in importance to them all, that it is scarcely necessary to invite to it your particular attention. It is principally as manufactures and commerce tend to increase the value of agricultural productions, and to extend their application to the wants and comforts of society, that they deserve the fostering care of Government.

Looking forward to the period, not far distant, when a sinking fund will no longer be required, the duties on those articles of importation which cannot come in competition with our own productions, are the first that should engage the attention of Congress in the modification of the Tariff. Of these, tea and coffee are the most prominent: they enter largely into the consumption of the country, and have become articles of necessity to all classes. A reduction, therefore, of the existing duties, will be felt as a common benefit; but, like all other legislation connected with commerce, to be efficacious, and not injurious, it should be gradual and certain.

The public prosperity is evinced in the increased revenue, arising from the sales of the public lands, and in the steady maintenance of that produced by imposts and tonnage, notwithstanding the additional duties imposed by the Act of 19th of May, 1828, and the unusual importations in the early part of that year.

The balance in the Treasury on the 1st of January, 1829, was five millions nine hundred and seventy-two thousand four hundred and thirty five dollars and eighty-one cents. The receipts of the current year are estimated at twenty-four millions six hundred and two thousand two hundred and thirty dollars, and the expenditures for the same time at twenty-six millions one hundred and sixty-four thousand five hundred and ninety-five dollars; leaving a balance in the Treasury on the 1st of January next, of four millions four hundred and ten thousand and seventy dollars, eighty-one cents.

There will have been paid, on account of the public debt, during the present year, the sum of twelve millions four hundred and five thousand and five dollars and eighty cents; reducing the whole debt of the Government, on the first of January next, to forty-eight millions five hundred and sixty-five thousand four hundred and six dollars and fifty

DECEMBER, 1829.]

*The President's Message.*

[SENATE.]

cents, including seven millions of five per cent. stock, subscribed to the Bank of the United States. The payment on account of the public debt, made on the first of July last, was eight millions seven hundred and fifteen thousand four hundred and sixty-two dollars and eighty-seven cents. It was apprehended that the sudden withdrawal of so large a sum from the banks in which it was deposited, at a time of unusual pressure in the money market, might cause much injury to the interests dependent on bank accommodations. But this evil was wholly averted by an early anticipation of it at the Treasury, aided by the judicious arrangements of the officers of the Bank of the United States.

This state of the finances exhibits the resources of the nation in an aspect highly flattering to its industry and auspicious of the ability of Government, in a very short time, to extinguish the public debt. When this shall be done, our population will be relieved from a considerable portion of its present burthens, and will find, not only new motives to patriotic affection, but additional means for the display of individual enterprise. The fiscal power of the States will also be increased, and may be more extensively exerted in favor of education and other public objects, while ample means will remain in the Federal Government to promote the general weal, in all the modes permitted to its authority.

After the extinction of the public debt it is not probable that any adjustment of the tariff upon principles satisfactory to the people of the Union, will, until a remote period, if ever, leave the Government without a considerable surplus in the Treasury, beyond what may be required for its current service. As, then, the period approaches when the application of the revenue to the payment of debt will cease, the disposition of the surplus will present a subject for the serious deliberation of Congress; and it may be fortunate for the country that it is yet to be decided. Considered in connection with the difficulties which have heretofore attended appropriations for purposes of internal improvement, and with those which this experience tells us will certainly arise, whenever power over such subjects may be exercised by the General Government, it is hoped that it may lead to the adoption of some plan which will reconcile the diversified interests of the States, and strengthen the bonds which unite them. Every member of the Union, in peace and in war, will be benefited by the improvement of inland navigation and the construction of highways in the several States. Let us, then, endeavor to attain this benefit in a mode which will be satisfactory to all. That hitherto adopted has, by many of our fellow-citizens, been deprecated as an infraction of the constitution, while, by others, it has been viewed as inexpedient. All feel that it has been employed at the expense of harmony in the legislative councils.

To avoid these evils, it appears to me that the most safe, just, and federal disposition which could be made of the surplus revenue, would be its apportionment among the several States according to their ratio of representation; and, should this measure not be found warranted by the constitution, that it would be expedient to propose to the States an amendment authorizing it. I regard an appeal to the source of power, in cases of real doubt, and where its exercise is deemed indispensable to the general welfare, as among the most sacred of all our obligations. Upon this country, more than any

other, has, in the providence of God, been cast the special guardianship of the great principle of adherence to written constitutions. If it fail here, all hope in regard to it will be extinguished. That this was intended to be a Government of limited and specific, and not general powers, must be admitted by all; and it is our duty to preserve for it the character intended by its framers. If experience points out the necessity for an enlargement of these powers, let us apply for it to those for whose benefit it is to be exercised; and not undermine the whole system by a resort to overstrained constructions. The scheme has worked well. It has exceeded the hopes of those who devised it, and become an object of admiration to the world. We are responsible to our country, and to the glorious cause of self-government, for the preservation of so great a good. The great mass of legislation relating to our internal affairs, was intended to be left where the Federal Convention found it—in the State Governments. Nothing is clearer, in my view, than that we are chiefly indebted for the success of the constitution under which we are now acting, to the watchful and auxiliary operation of the State authorities. This is not the reflection of a day, but belongs to the most deeply rooted convictions of my mind. I cannot, therefore, too strongly or too earnestly, from my own sense of its importance, warn you against all encroachments upon the legitimate sphere of State sovereignty. Sustained by its healthful and invigorating influence, the Federal system can never fall.

In the collection of the revenue, the long credits authorized on goods imported from beyond the Cape of Good Hope, are the chief cause of the losses at present sustained. If these were shortened to six, nine, and twelve months, and warehouses provided by Government, sufficient to receive the goods offered in deposit for security, and for debenture; and if the right of the United States to a priority of payment out of the estates of its insolvent debtors were more effectually secured, this evil would, in a great measure, be obviated. An authority to construct such houses, is, therefore, with the proposed alteration of the credits, recommended to your attention.

It is worthy of notice that the laws for the collection and security of the revenue arising from imposts, were chiefly framed when the rates of duties on imported goods presented much less temptation for illicit trade than at present exists. There is reason to believe that these laws are in some respects quite insufficient for the proper security of the revenue, and the protection of the interests of those who are disposed to observe them. The injurious and demoralizing tendency of a successful system of smuggling, is so obvious as not to require comment, and cannot be too carefully guarded against. I therefore suggest to Congress the propriety of adopting efficient measures to prevent this evil; avoiding, however, as much as possible, every unnecessary infringement of individual liberty, and embarrassment of fair and lawful business.

On an examination of the records of the Treasury, I have been forcibly struck with the large amount of public money which appears to be outstanding. Of the sum thus due from individuals to the Government, a considerable portion is undoubtedly desperate; and, in many instances, has probably been rendered so by remissness in the agents charged with its collection. By proper exertions a

great part, however, may yet be recovered; and, whatever may be the portions respectively belonging to these two classes, it behoves the Government to ascertain the real state of the fact. This can be done only by the prompt adoption of judicious measures for the collection of such as may be made available. It is believed that a very large amount has been lost through the inadequacy of the means provided for the collection of debts due to the public, and that this inadequacy lies chiefly in the want of legal skill, habitually and constantly employed in the direction of the agents engaged in the service. It must, I think, be admitted, that the supervisory power over suits brought by the public, which is now vested in an *accounting* officer of the Treasury, not selected with a view to his legal knowledge, and encumbered as he is with numerous other duties, operates unfavorably to the public interest.

It is important that this branch of the public service be subjected to the supervision of such professional skill as will give it efficiency. The expense attendant upon such a modification of the Executive Department would be justified by the soundest principles of economy. I would recommend, therefore, that the duties now assigned to the Agent of the Treasury, so far as they relate to the superintendence and management of legal proceedings, on the part of the United States, be transferred to the Attorney-General, and that this officer be placed on the same footing, in all respects, as the Heads of the other Departments, receiving like compensation, and having such subordinate officers provided for his Department as may be requisite for the discharge of these additional duties. The professional skill of the Attorney-General, employed in directing the conduct of Marshals and District Attorneys, would hasten the collection of debts now in suit, and, hereafter, save much to the Government. It might be further extended to the superintendence of all criminal proceedings for offences against the United States. In making this transfer, great care should be taken, however, that the power necessary to the Treasury Department be not impaired: one of its greatest securities consisting in a control over all accounts, until they are audited or reported for suit.

In connection with the foregoing views, I would suggest, also, an inquiry, whether the provisions of the act of Congress authorizing the discharge of the persons of debtors to the Government, from imprisonment, may not, consistently with the public interest, be extended to the release of the debt, where the conduct of the debtor is wholly exempt from the imputation of fraud. Some more liberal policy than that which now prevails, in reference to this unfortunate class of citizens, is certainly due to them, and would prove beneficial to the country. The continuance of the liability, after the means to discharge it have been exhausted, can only serve to dispirit the debtor; or, where his resources are but partial, the want of power in the Government to compromise and release the demand, instigates to fraud, as the only resource for securing a support to his family. He thus sinks into a state of apathy, and becomes a useless drone in society, or a vicious member of it, if not a feeling witness of the rigor and inhumanity of his country. All experience proves that oppressive debt is the bane of enterprise; and it should be the care of a Republic not to exert a grinding power over misfortune and poverty

Since the last session of Congress, numerous frauds on the Treasury have been discovered, which I thought it my duty to bring under the cognizance of the United States Court for this District, by a criminal prosecution. It was my opinion, and that of able counsel who were consulted, that the cases came within the penalties of the act of the 17th Congress, approved 8d March, 1823, providing for the punishment of frauds committed on the Government of the United States. Either from some defect in the law, or in its administration, every effort to bring the accused to trial under its provisions proved ineffectual, and the Government was driven to the necessity of resorting to the vague and inadequate provisions of the common law. It is therefore my duty to call your attention to the laws which have been passed for the protection of the Treasury. If, indeed, there be no provision by which those who may be unworthily intrusted with its guardianship, can be punished for the most flagrant violation of duty, extending even to the most fraudulent appropriation of the public funds to their own use, it is time to remedy so dangerous an omission. Or, if the law has been perverted from its original purposes, and criminals, deserving to be punished under its provisions, have been rescued by legal subtleties, it ought to be made so plain, by amendatory provisions, as to baffle the arts of perversion, and accomplish the end of its original enactment.

In one of the most flagrant cases, the Court decided that the prosecution was barred by the statute which limits the prosecution for fraud to two years. In this case, all the evidences of fraud, and indeed all knowledge that a fraud had been committed, were in possession of the party accused, until after the two years had elapsed. Surely the statute ought not to run in favor of any man while he retains all the evidences of his crime in his own possession; and, least of all, in favor of a public officer who continues to defraud the Treasury and conceal the transaction, for the brief term of two years. I would, therefore, recommend such an alteration of the law as will give the injured party and the Government two years after the disclosure of the fraud, or after the accused is out of office, to commence their prosecution.

In connection with this subject, I invite the attention of Congress to a general and minute inquiry into the condition of the Government, with a view to ascertain what offices can be dispensed with, what expenses retrenched, and what improvements may be made in the organization of its various parts, to secure the proper responsibility of public agents, and promote efficiency and justice in all its operations.

The report of the Secretary of War will make you acquainted with the condition of our Army, Fortifications, Arsenal, and Indian Affairs. The proper discipline of the Army, the training and equipment of the Militia, the education bestowed at West Point, and the accumulation of the means of defence, applicable to the Naval force, will tend to prolong the peace we now enjoy, and which every good citizen—more especially those who have felt the miseries of even a successful warfare—must ardently desire to perpetuate.

The returns from the subordinate branches of this service exhibit a regularity and order highly creditable to its character: both officers and soldiers seem imbued with a proper sense of duty, and con-

DECEMBER, 1839.]

*The President's Message.*

[SENATE.]

form to the restraints of exact discipline with that cheerfulness which becomes the profession of arms. There is need, however, of further legislation, to obviate the inconveniences specified in the report under consideration: to some of which it is proper that I should call your particular attention.

The act of Congress, of the 2d of March, 1821, to reduce and fix the military establishment, remaining unexecuted as it regards the command of one of the regiments of artillery, cannot now be deemed a guide to the Executive in making the proper appointment. An explanatory act, designating the class of officers out of which this grade is to be filled—whether from the military list, as existing prior to the act of 1821, or from it, as it has been fixed by that act—would remove this difficulty. It is also important that the laws regulating the pay and emoluments of officers generally, should be more specific than they now are. Those, for example, in relation to the Paymaster and Surgeon General, assign to them an annual salary of two thousand five hundred dollars; but are silent as to allowances which in certain exigencies of the service may be deemed indispensable to the discharge of their duties. This circumstance has been the authority for extending to them various allowances at different times under former administrations: but no uniform rule has been observed on the subject. Similar inconveniences exist in other cases, in which the construction put upon the laws by the public accountants may operate unequally, produce confusion, and expose officers to the odium of claiming what is not their due.

I recommend to your fostering care, as one of our safest means of national defence, the Military Academy. This institution has already exercised the happiest influence upon the moral and intellectual character of our army; and such of the graduates as, from various causes, may not pursue the profession of arms, will be scarcely less useful as citizens. Their knowledge of the military art will be advantageously employed in the militia service; and, in a measure, secure to that class of troops the advantages which, in this respect, belong to standing armies.

I would also suggest a review of the Pension law, for the purpose of extending its benefits to every Revolutionary soldier who aided in establishing our liberties, and who is unable to maintain himself in comfort. These relics of the War of Independence have strong claim upon their country's gratitude and bounty. The law is defective, in not embracing within its provisions all those who were, during the last war, disabled from supporting themselves by manual labor. Such an amendment would add but little to the amount of pensions, and is called for by the sympathies of the people, as well as by considerations of sound policy. It will be perceived that a large addition to the list of pensioners has been occasioned by an order of the late administration, departing materially from the rules which had previously prevailed. Considering it an act of legislation, I suspended its operations as soon as I was informed that it had commenced. Before this period, however, applications under the new regulations had been preferred, to the number of one hundred and fifty-four: of which on the 27th of March, the date of its revocation, eighty-seven were admitted. For the amount, there was neither estimate nor appropriation; and, besides this deficiency, the regular allowances, according to the rules

which have heretofore governed the Department, exceed the estimate of its late secretary by about fifty thousand dollars: for which an appropriation is asked.

Your particular attention is requested to that part of the report of the Secretary of War which relates to the money held in trust for the Seneca tribe of Indians. It will be perceived that, without legislative aid, the Executive cannot obviate the embarrassments occasioned by the diminution of the dividends on that fund; which originally amounted to one hundred thousand dollars, and has recently been invested in United States three per cent. stock.

The condition and ulterior destiny of the Indian tribes within the limits of some of our States, have become objects of much interest and importance. It has long been the policy of Government to introduce among them the arts of civilization, in the hope of gradually reclaiming them from a wandering life. This policy has, however, been coupled with another, wholly incompatible with its success. Professing a desire to civilize and settle them, we have, at the same time, lost no opportunity to purchase their lands, and thrust them further into the wilderness. By this means they have not only been kept in a wandering state, but been led to look upon us as unjust and indifferent to their fate. Thus, though lavish in its expenditure upon the subject, Government has constantly defeated its own policy, and the Indians, in general, receding further and further to the West, have retained their savage habits. A portion, however, of the Southern tribes, having mingled much with the whites, and made some progress in the arts of civilized life, have lately attempted to erect an independent government within the limits of Georgia and Alabama. These States, claiming to be the only sovereigns within their territories, extended their laws over the Indians, which induced the latter to call upon the United States for protection.

Under these circumstances, the question presented was, whether the General Government had a right to sustain those people in their pretensions? The constitution declares, that "no new States shall be formed or erected within the jurisdiction of any other State," without the consent of its Legislature. If the General Government is not permitted to tolerate the erection of a confederate State within the territory of one of the members of this Union, against her consent, much less could it allow a foreign and independent government to establish itself there. Georgia became a member of the Confederacy which eventuated in our federal union, as a sovereign State, always asserting her claim to certain limits; which, having been originally defined in her colonial charter, and subsequently recognized in the treaty of peace, she has ever since continued to enjoy, except as they have been circumscribed by her own voluntary transfer of a portion of her territory to the United States, in the articles of cession of 1802. Alabama was admitted into the Union on the same footing with the original States, with boundaries which were prescribed by Congress. There is no constitutional, conventional, or legal provision, which allows them less power over the Indians within their borders, than is possessed by Maine or New York. Would the people of Maine permit the Penobscot tribe to erect an Independent Government within their State? and, unless they did, would it not be the duty of the General Government to support them in resisting



such a measure? Would the people of New York permit each remnant of the Six Nations within her borders to declare itself an independent people, under the protection of the United States? Could the Indians establish a separate republic on each of their reservations in Ohio? And if they were so disposed, would it be the duty of this Government to protect them in the attempt? If the principle involved in the obvious answer to these questions be abandoned, it will follow that the objects of this Government are reversed, and that it has become a part of its duty to aid in destroying the States which it was established to protect.

Actuated by this view of the subject, I informed the Indians inhabiting parts of Georgia and Alabama, that their attempt to establish an independent government would not be countenanced by the Executive of the United States, and advised them to emigrate beyond the Mississippi, or submit to the laws of those States.

Our conduct towards these people is deeply interesting to our national character. Their present condition, contrasted with what they once were, makes a most powerful appeal to our sympathies. Our ancestors found them the uncontrolled possessors of these vast regions. By persuasion and force they have been made to retire from river to river, and from mountain to mountain, until some of the tribes have become extinct, and others have left but remnants, to preserve, for a while, their once terrible names. Surrounded by the whites, with their arts of civilization, which, by destroying the resources of the savage, doom him to weakness and decay, the fate of the Mohegan, the Narraganset, and the Delaware, is fast overtaking the Choctaw, the Cherokee, and the Creek. That this fate surely awaits them, if they remain within the limits of the States, does not admit of a doubt. Humanity and national honor demand that every effort should be made to avert so great a calamity. It is too late to inquire whether it was just in the United States to include them and their territory within the bounds of new States whose limits they could control. That step cannot be retraced. A State cannot be dismembered by Congress, or restricted in the exercise of her constitutional power. But the people of those States, and of every State, actuated by feelings of justice and regard for our national honor, submit to you the interesting question, whether something cannot be done, consistently with the rights of the States, to preserve this much injured race?

As a means of effecting this end, I suggest, for your consideration, the propriety for setting apart an ample district west of the Mississippi, and without the limits of any State or Territory, now formed, to be guarantied to the Indian tribes, as long as they shall occupy it: each tribe having a distinct control over the portion designated for its use. There they may be secured in the enjoyment of governments of their own choice, subject to no other control from the United States than such as may be necessary to preserve peace on the frontier, and between the several tribes. There the benevolent may endeavor to teach them the arts of civilization; and, by promoting union and harmony among them, to raise up an interesting commonwealth, destined to perpetuate the race, and to attest the humanity and justice of this Government.

This emigration should be voluntary: for it would be as cruel as unjust to compel the aborigines to

abandon the graves of their fathers, and seek a home in a distant land. But they should be distinctly informed that, if they remain within the limits of the States, they must be subject to their laws. In return for their obedience, as individuals, they will, without doubt, be protected in the enjoyment of those possessions which they have improved by their industry. But it seems to me visionary to suppose that, in this state of things, claims can be allowed on tracts of country on which they have neither dwelt nor made improvements, merely because they have seen them from the mountain, or passed them in the chase. Submitting to the laws of the States, and receiving, like other citizens, protection in their persons and property, they will, ere long, become merged in the mass of our population.

The accompanying report of the Secretary of the Navy will make you acquainted with the condition and useful employment of that branch of our service during the present year. Constituting, as it does, the best standing security of this country against foreign aggression, it claims the especial attention of Government. In this spirit, the measures which, since the termination of the last war, have been in operation for its gradual enlargement, were adopted; and it should continue to be cherished as the offspring of our national experience. It will be seen, however, that notwithstanding the great solicitude which has been manifested for the perfect organization of this arm, and the liberality of the appropriations which that solicitude has suggested, this object has, in many important respects, not been secured.

In time of peace, we have need of no more ships of war than are requisite to the protection of our commerce. Those not wanted for this object must lie in the harbors, where, without proper covering, they rapidly decay; and even under the best precautions for their preservation, must soon become useless. Such is already the case with many of our finest vessels; which, though unfinished, will now require immense sums of money to be restored to the condition in which they were when committed to their proper element. On this subject there can be but little doubt that our best policy would be, to discontinue the building of ships of the first and second class, and look rather to the possession of ample materials, prepared for the emergencies of war, than to the number of vessels which we can float in a season of peace, as the index of our naval power. Judicious deposits in navy yards, of timber and other materials, fashioned under the hands of skilful workmen, and fitted for prompt application to their various purposes, would enable us, at all times, to construct vessels as fast as they can be manned, and save the heavy expense of repairs, except to such vessels as must be employed in guarding our commerce. The proper points for the establishment of these yards are indicated with so much force, in the report of the Navy Board, that, in recommending it to your attention, I deem it unnecessary to do more than express my hearty concurrence in their views. The yard in this district being already furnished with most of the machinery necessary for ship-building, will be competent to the supply of the two selected by the Board as the best for the concentration of materials; and, from the facility and certainty of communication between them, it will be useless to incur, at those depots, the expense of similar machinery, especially that

DECEMBER, 1839.]

*The President's Message.*

[SENATE.]

used in preparing the usual metallic and wooden furniture of vessels.

Another improvement would be effected by dispensing altogether with the Navy Board, as now constituted, and substituting, in its stead, bureaux similar to those already existing in the War Department. Each member of the Board, transferred to the head of a separate bureau, charged with specific duties, would feel, in its highest degree, that whole-some responsibility, which cannot be divided, without a far more than proportionate diminution of its force. Their valuable services would become still more so when separately appropriated to distinct portions of the great interests of the Navy, to the prosperity of which each would be impelled to devote himself, by the strongest motives. Under such an arrangement, every branch of this important service would assume a more simple and precise character: its efficiency would be increased, and scrupulous economy in the expenditure of public money promoted.

I would also recommend that the marine corps be merged in the artillery or infantry, as the best mode of curing the many defects in its organization. But little exceeding in number any of the regiments of infantry, that corps has, besides its Lieutenant Colonel Commandant, five Brevet Lieutenant Colonels, who receive the full pay and emoluments of their brevet rank, without rendering proportionate service. Details for marine service could as well be made from the artillery or infantry, there being no peculiar training requisite for it.

With these improvements, and such others as zealous watchfulness and mature consideration may suggest, there can be little doubt that, under an energetic administration of its affairs, the Navy may soon be made every thing that the nation wishes it to be. Its efficiency in the suppression of piracy in the West India seas, and wherever its squadrons have been employed in securing the interests of the country, will appear from the report of the Secretary, to which I refer you for other interesting details. Among these I would bespeak the attention of Congress for the views presented in relation to the inequality between the Army and Navy, as to the pay of officers. No such inequality should prevail between these brave defenders of their country; and, where it does exist, it is submitted to Congress whether it ought not to be rectified.

The report of the Postmaster General is referred to as exhibiting a highly satisfactory administration of that Department. Abuses have been reformed; increased expedition in the transportation of the mail secured; and its revenue much improved. In a political point of view, this Department is chiefly important as affording the means of diffusing knowledge. It is to the body politic, what the veins and arteries are to the natural, conveying, rapidly and regularly, to the remotest parts of the system, correct information of the operations of the Government, and bringing back to it the wishes and feelings of the people. Through its agency we have secured to ourselves the full enjoyment of the blessings of a free press.

In this general survey of our affairs, a subject of high importance presents itself in the present organization of the Judiciary. A uniform operation of the Federal Government in the different States is certainly desirable; and, existing as they do in the Union, on the basis of perfect equality, each State has a right to expect that the benefits conferred on the citizens of others should be extended to hers.

The Judicial system of the United States exists in all its efficiency in only fifteen members of the Union; to three others, the Circuit Courts, which constitute an important part of that system, have been imperfectly extended; and to the remaining six, altogether denied. The effect has been to withhold from the inhabitants of the latter, the advantages afforded (by the Supreme Court) to their fellow-citizens in other States, in the whole extent of the criminal, and much of the civil, authority of the Federal Judiciary. That this state of things ought to be remedied, if it can be done consistently with the public welfare, is not to be doubted; neither is it to be disguised that the organization of our judicial system is at once a difficult and delicate task. To extend the Circuit Courts equally throughout the different parts of the Union, and, at the same time, to avoid such a multiplication of members as would encumber the Supreme Appellate Tribunal, is the object desired. Perhaps it might be accomplished by dividing the Circuit Judges into two classes, and providing that the Supreme Court should be held by those classes alternately—the Chief Justice always presiding.

If an extension of the Circuit Court system to those States which do not now enjoy its benefits should be determined upon, it would, of course, be necessary to revise the present arrangement of the Circuits; and even if that system should not be enlarged, such a revision is recommended.

A provision for taking the census of the people of the U. States will, to ensure the completion of that work within a convenient time, claim the early attention of Congress.

The great and constant increase of business in the Department of State forced itself, at an early period, upon the attention of the Executive. Thirteen years ago, it was, in Mr. Madison's last message to Congress, made the subject of an earnest recommendation, which has been repeated by both of his successors; and my comparatively limited experience has satisfied me of its justness. It has arisen from many causes, not the least of which is the large addition that has been made to the family of independent nations, and the proportionate extension of our foreign relations. The remedy proposed was the establishment of a Home Department—a measure which does not appear to have met the views of Congress, on account of its supposed tendency to increase, gradually and imperceptibly, the already too strong bias of the Federal system towards the exercise of authority not delegated to it. I am not, therefore, disposed to revive the recommendation; but am not the less impressed with the importance of so organizing that Department, that its Secretary may devote more of his time to our foreign relations. Clearly satisfied that the public good would be promoted by some suitable provision on the subject, I respectfully invite your attention to it.

The charter of the Bank of the United States expires in 1836, and its stockholders will most probably apply for a renewal of their privileges. In order to avoid the evils resulting from precipitancy in a measure involving such important principles, and such deep pecuniary interests, I feel that I cannot, in justice to the parties interested, too soon present it to the deliberate consideration of the Legislature and the people. Both the constitutionality and the expediency of the law creating this Bank, are well questioned by a large portion of our fellow-citizens; and it must be admitted by all,

that it has failed in the great end of establishing a uniform and sound currency.

Under these circumstances, if such an institution is deemed essential to the fiscal operations of the Government, I submit to the wisdom of the Legislature, whether a National one, founded upon the credit of the Government, and its revenues, might not be devised, which would avoid all constitutional difficulties, and, at the same time, secure all the advantages to the Government and country that were expected to result from the present Bank.

I cannot close this communication without bringing to your view the just claim of the representatives of Commodore Decatur, his officers and crew, arising from the re-capture of the frigate Philadelphia, under the heavy batteries of Tripoli. Although sensible, as a general rule, of the impropriety of Executive interference, under a Government like ours, where every individual enjoys the right of directly petitioning Congress, yet, viewing this case as one of a very peculiar character, I deem it my duty to recommend it to your favorable consideration. Besides the justice of this claim, as corresponding to those which have been since recognized and satisfied, it is the fruit of a deed of patriotic and chivalrous daring, which infused life and confidence into our infant Navy, and contributed, as much as any exploit in its history, to elevate our national character. Public gratitude, therefore, stamps her seal upon it; and the meed should not be withheld which may hereafter operate as a stimulus to our gallant tars.

I now commend you, fellow-citizens, to the guidance of Almighty God, with a full reliance on His merciful providence for the maintenance of our free institutions; and with an earnest supplication, that, whatever errors it may be my lot to commit, in discharging the arduous duties which have devolved on me, will find a remedy in the harmony and wisdom of your councils.

ANDREW JACKSON.

December 8, 1822.

The Message was read, and, on motion by Mr. ROWAN, it was

*Ordered*, That four thousand five hundred copies of the Message, with one thousand five hundred copies of the documents accompanying it, be printed for the use of the Senate.

WEDNESDAY, December 9.

*Honors to the Dead.*

Mr. ELLIS having announced the death of his colleague, the Honorable THOMAS B. REED, of Mississippi, submitted the following resolutions, which were unanimously agreed to:

*Resolved*, That the members of the Senate, from a desire of showing every mark of respect to the memory of the Honorable THOMAS B. REED, deceased, late a Senator of this body, from the State of Mississippi, will go into mourning for one month by wearing crape on the left arm.

*Resolved*, That, as an additional evidence of respect to the memory of the Honorable THOMAS B. REED the Senate do now adjourn.

WEDNESDAY, December 28.

*Interest due to certain States.*

The bill providing for the allowance of interest to certain States therein mentioned, on such advances made by them to the United States, during the late war, as have been or may hereafter be refunded to them, with the amendments of the Committee on the Judiciary to the bill, were taken up in Committee of the Whole. The amendments, viz: To provide for the payment of interest due to the States of Rhode Island and New Hampshire, were agreed to; and, on motion of Mr. FREDELL, the bill was further amended by inserting the State of North Carolina; and the question being on ordering the bill to be engrossed for a third reading—

Mr. BENTON expressed some repugnance at voting for the bill, until he was better informed of the consequences which might attend that vote, and how far the accounting officers of the Government might be authorized to go under the bill. Formerly great rigor and exactness were observed in the investigation of claims on the Government before Congress ordered their allowance. It was a good practice, and he should be sorry to see a different and looser mode introduced. For himself, he did not know that the United States owed a debt to a single State, and if the bill proposed to authorize the accounting officers to ascertain the fact of the existence of debt to the States, and allow interest thereon, without other examination, he could not consent to it. He should himself like to see the accounts, whether for advances made in money, or for services rendered, and know whether they were rendered by order or against order, and judge of their validity. At present he was in the dark as to the whole subject of the bill; he had seen no report on it, and knew not if there was any. He desired further information.

Mr. MARKS adverted to certain documents in his possession which would elucidate the principle of the bill, but not anticipating the consideration of the bill to-day, he had not brought the papers to the House with him. He, therefore, moved to lay the bill on the table for the present, but withdrew his motion at the request of

Mr. SMITH, of Maryland, who said that the bill did not contemplate the admission of any claims for advances, or the examination of any accounts; there were none to be rendered—they had all been settled and paid—and the bill is for the allowance of interest on those claims which have been settled and paid. Instead of laying the bill on the table, he preferred postponing it to Monday, and making it the order of the day; which motion he made, and it was carried.

TUESDAY, December 29.

*Military Peace Establishment.*

The Senate proceeded to the special order of

DECEMBER, 1839.]

*Military Peace Establishment.*

[SENATE.]

the day on the bill explanatory of the act to reduce and fix the military peace establishment of the United States, passed March 2, 1821.

The bill is as follows :

"Whereas doubts have arisen in the construction of the act of Congress, passed the second day of March, one thousand eight hundred and twenty-one, entitled "An act to reduce and fix the military peace establishment of the United States," which have hitherto prevented it from being carried into execution, so far as relates to the arrangement of a colonel to the second regiment of Artillery: And whereas it was the true intent and meaning of the said act, that the vacancy aforesaid should be filled by arranging to it one of the colonels in the army of the United States, at the time of the passage thereof: And whereas, in the execution of said act, Daniel Bissell, then a colonel in the line, and a brevet Brigadier General in the army of the United States, was ordered to be discharged as a supernumerary officer, which order, as it affected the said Daniel Bissell, and some other officers, was held by the Senate to be illegal and void: And whereas the President of the United States has since nominated the said Daniel Bissell to be colonel of the second regiment of artillery aforesaid, which nomination the Senate have not acted upon, because they hold the said Colonel and Brevet Brigadier General Daniel Bissell to be in the army, and to need no new appointment: Now, therefore, to put an end to all doubt and disagreement upon this subject, and to enable the President to carry said act of March second, one thousand eight hundred and twenty-one, into execution :

"Be it enacted, &c. That the President be, and he is hereby, authorized to fill the vacancy in the second regiment of artillery, by arranging Daniel Bissell thereto."

Mr. BENTON, in support of the passage of the bill, read the report of the Committee on Military Affairs, to whom was referred that part of the President's message to Congress in 1838, which relates to this subject.

Mr. SANFORD moved to expunge the preamble from the bill. He considered it wholly unnecessary, and stated that there was no instance in our Government in which a preamble to a bill was employed as a vehicle of the reasons why the bill itself ought to be passed. It was, he repeated, wholly unusual and unnecessary; and, in the present case, especially unnecessary, since all the reasons why the bill ought to be passed, were explained more at length in various other documents.

Mr. BENTON, in reply, said, that he would be sorry to be the occasion of introducing any innovations into the proceedings of this body; but if it was any innovation, he considered the present instance of sufficient importance to authorize a departure from the usual practice. It was a case, he said, which stood alone, and which, in his opinion, not only justified, but required a preamble. The object of the preamble was to explain the nature and the end of the act itself. The necessity for the preamble in this particular case, was, that the reasons for the act only existed in the secret Executive

records of the Senate, and could not be known to the public or the other House unless stated in this way. There was no danger to be apprehended of its growing into precedent, nor of our bills being loaded with unnecessary preambles. He therefore hoped that the motion of the gentleman from New York would not prevail.

Mr. SMITH, of Maryland, said that precedents arise, and only arise, from the repetition of particular cases, which increase gradually till at length they become common usage. Thus, if it be acceded to in the present instance, it would be quoted hereafter in support of a repetition of it. He considered it wrong to follow the English practice in this respect, as the reports of our committees, with which all bills are accompanied, supply the place of preambles.

Mr. HOLMES deemed a preamble nothing but an apology for legislation; and for apologies he thought there was no necessity. His chief objection to preambles was, that they rendered legislation complex instead of elucidating it.

Mr. HAYNE said, that in the good olden times, when people were not ashamed to tell the truth, bills were preceded by preambles always. They were used to set forth the object of the bill, and the means by which that object was to be obtained. It now happens that the practice is changed, and preambles have come into disuse because legislative bodies are less candid. So much for precedent, which has led us to dispense with the use of preambles. He knew cases in which it would have been well to have retained the old practice. He knew a case in which a preamble would have been of infinite advantage—he meant the Tariff law. A preamble to that act would have stated its true objects—that it was for the purpose, not of raising revenue, but for the protection of the manufacturing interests. As to the apprehensions of the gentleman from Maryland, (Mr. SMITH,) he (Mr. H.) would say that there was no danger of its becoming a precedent—on the contrary, the only danger to be dreaded was, that we may be left without a precedent for stating the grounds of our legislation. The gentleman not only objects as to the danger of its becoming a precedent for future action, but he also says that it is not proper to spread our reasons for legislating upon record. This very case, he (Mr. H.) contended, required that the reasons should go with the act. Suffer it to go to the world naked, and what will it appear? Why, that Colonel Bissell is assigned to the command of the second regiment of artillery by an act of Congress. This would seem out of course, and what, he would ask, would be the consequences? Why, that Congress undertakes to fill vacancies in the army by special acts. But this is an extraordinary case, and to prevent the possibility of its being misunderstood, we state the reasons of passing the bill in a preamble to it. Unless these reasons were spread upon record, he would hesitate much whether he

should vote for the passage of the bill, as he was not disposed to search for the reasons amongst the public documents of the Senate, or the Executive archives of the Senate. He hoped, therefore, the reasons for this act would go with it, and speak for themselves to all future time. The preamble of a bill, he said, was the key to unlock the motive which induced its passage.

Mr. Foor said that this bill required no key to unlock it. The bill was perfectly simple, and easily understood; it reads, "that the President be, and is hereby, authorized to fill the vacancy in the second regiment of artillery, by arranging Daniel Bissell thereto." As to assigning reasons for the passage of a bill he thought there was no necessity for it. He was opposed to making apologies for our public acts—he would make no apology. As the gentleman from Maryland had well observed, the reports accompanying the bills contain the reasons of our legislation.

Mr. KANE said there was some difficulty with him about this matter. The necessity which gave rise to the bill was a different construction being given to the act of 1821 by the President and the Senate. The President thought that he had not the power to arrange General Bissell to the command of the second regiment of artillery, and the Senate, on the contrary, thought he had the authority to do so. A bill has been formed for the purpose of settling the difficulty. If the bill pass in the proposed form, without the preamble, we call upon the President to sign a bill stating that to be right which he has declared or believed to be wrong; we call upon him to sign against his conviction. As he stated before, the President denies that he has the authority which the bill supposes. He moved to amend the motion of the Senator from New York, by striking out all from the word "artillery" to the words "And whereas," exclusive.

Mr. SMITH said that this very motion showed the impropriety of introducing preambles into bills. The Senator from South Carolina (Mr. HAYNE) considered a preamble necessary to show the intent and meaning of an act; and he said that if a proper preamble had been placed before the Tariff bill, the objects set forth would be widely different from what was there stated. His opinion was, that the preamble was wholly unnecessary; if it prevail in one case it must prevail in all, and the result will be that, instead of discussing bills, we will be employed in the consideration of preambles.

Mr. DICKERSON said he would vote against striking out the preamble in this particular case, though he objected to the general use of it. In reply to the gentleman from South Carolina (Mr. HAYNE) who expressed his regret that a preamble was not introduced into the Tariff bill, Mr. D. read the preamble of the act of 1789, laying duties, which was as follows:

"Whereas it is necessary for the support of Government, for the discharge of the debts of the

United States, and the encouragement and protection of manufactures, that duties be laid on goods, wares, and merchandises, imported."

Mr. HAYNE said the gentleman had given the best reason why the practice ought not to be dispensed with. If the real object of the Tariff act of 1828 had been prefixed to it, we could then have gone to the judiciary and tested the constitutionality of that law.

Mr. KANE, with the consent of the Senate, so modified his amendment as to read, "And whereas it was decided by the Senate to be the true intent and meaning," &c.

This amendment was agreed to—ayes 21, noes 15.

The question on striking out the whole preamble was next taken, and negatived—ayes 19, noes 20.

Mr. SMITH, of Maryland, inquired whether the person referred to in the bill would be entitled to his pay for the time from which he was deranged to the time when he is to be arranged.

Mr. BENTON replied that each officer was obliged to give a certificate of honor that he was employed, and had incurred the usual expenses, during the time for which he claims pay, before he is entitled to any emolument.

The question of engrossing the bill for a third reading being stated,

Mr. BIBB asked the yeas and nays. He said he was equally opposed to the principle of the preamble and the bill. He thought the decision of the President right and this bill wrong. He was also opposed to paying any man a sum of perhaps fifteen thousand dollars, who had rendered no service for it.

The yeas and nays were ordered.

Mr. SMITH moved to lay the bill on the table. He thought the bill could be amended by the insertion of a clause, providing against the payment of this individual for the time he has been out of service.

The motion was agreed to.

MONDAY, January 4, 1830.

### *Pre-emption Rights.*

The bill to grant pre-emption rights to settlers on the public lands, was read the third time, and the question was stated on its passage.

Mr. BELL said that this bill, in its operations, would produce this effect: the encouragement of future violation of the laws which regulate our public land system. This bill gives the right of pre-emption to all those who have violated our land laws by entering on the public lands, and now have actual possession of them. It gives the right to those who have thus entered these, to purchase them at the minimum price. It will confer the right on a large portion of those intruders who have entered on those new tracts of land which have been surveyed, but which have not been as yet offered for sale. It will confer the right

JANUARY, 1890.]

*Pre-emption Rights.*

[SENATE.]

on those who are in possession of the most eligible portions of land in the new country, and the effect will be, that when those lands are offered at public sale, the intruders who are in possession of them, will deter purchasers from bidding for them. There are many and obvious reasons, (said Mr. B.,) why purchasers who already have lands, will decline interfering with the possessors of these lands when offered for sale, however eligible they may be. Compassion for the situation of these people and their families, will prevent competitors from interfering with them. There are, in fact, many other reasons to convince them of the imprudence of purchasing such tracts of lands over those who have taken possession of them. These intruders then will remain in possession, and this bill gives them the right to enter these lands at the minimum price, although they might be worth four times as much. This bill, besides, allows the purchasers time which is not allowed to others; it, in effect, gives them a credit of one year. If he understood the bill, (Mr. B. said,) its operations would not cease here. If its operations would end here only, the objection he had stated to the bill would still be conclusive with him; but its effect extended farther; it sanctions (said he) an act forbidden by the laws of the United States; it sanctions intruders on the public lands, and it will sanction this as a precedent for future intruders to act likewise. How many will it not tempt to follow the example, thus to give them title to the public lands, at the minimum price, and on a year's credit? He would ask whether this law would not encourage other intruders to enter upon the public lands, when they can purchase them at the minimum price? We cannot, and we will not refuse them the same privilege, when they ask us, which we now propose to grant. Any person who has witnessed the effect of precedents in this body, must see that this precedent will be acted upon hereafter. Thus by holding out this encouragement, the effect will be to induce other intruders to enter upon the public lands, with the hope of finally being allowed to purchase them at the minimum price. This is the natural, the probable, and certain effect of the measure proposed. It would be better to repeal all laws on this subject, and to permit a general scramble, than to pass the present law.

Mr. BARTON said he would state briefly the reasons which influenced the committee in reporting the bill. There had been, heretofore, some difficulty with the committee on this subject of pre-emption rights; but he believed no difficulty on that subject existed at present. With respect to the prohibition of settlements on the public lands, contained in the old act of 1807, and alluded to by the gentleman from New Hampshire, (Mr. BELLI,) that act did indeed prohibit such intrusions, (and it was proper enough for any government intending to sell the whole of its lands to make such provision,) but the more particular object of that

act was to prevent any difficulty in relation to the bature at New Orleans. The act, however, although intended to apply to that particular case, must necessarily have been general in its effects; and for this reason, and because of the many cases of hardship which arose from it, Congress had on various occasions deemed it necessary to depart from the provisions of the act of 1807, and grant pre-emption rights to actual settlers on the public lands. Inasmuch, then, as these various grants, made at different periods, in different sections of the country, together with the operations of the old law above alluded to, created great inequality in the conditions of the various settlers on the public lands, the object of the committee was to destroy that inequality, and place all the new States and Territories on the same footing. So far from its being the settled policy of the Government to prevent intrusions on the public land by others than actual purchasers, the general prohibition of the law of 1807 had been, as he had just observed, departed from in various instances, so that the bad precedent of reward in violation of the law, objected to by the gentleman from New Hampshire, had in fact been often set, and long ago. As to the policy or expediency of the measure recommended by the committee, they were chiefly induced to report the bill in consequence of the operations of the public land system at the present time. If the gentleman from New Hampshire would turn to the documents on the subject, he would find that, for the last thirty years, the sales of the lands had netted to the Government but little more than the minimum price, while the actual settler had paid more; and that result was produced in this manner: among other causes, not necessary to detail, there was a kind of intermediate power interposed between the actual settler and cultivator, and the Government. Speculators formed a combination, and ran up the price of the lands under sale, in some instances, but in a great many more cases, formed combinations to intimidate that class of purchasers who usually till the soil, and bought up large bodies of land for but little more than the minimum price; which they afterwards sold to them at a great profit. On consulting with the Commissioner of the General Land Office, and learning that this system of speculation had been carried on to a very great extent, particularly in the southwest, the question presented itself to the committee, whether it would not be the better policy for the Government to give to the actual settler the tract cultivated by him, at the minimum price, than to give it, at the same price, to those who only purchased with a view to ultimate profit; and they had come to the conclusion that it was as much for the interest of the Government as of the cultivator and settler, that this combination of speculators should be disarmed and put down, by thus preferring the occupant. No injury could possibly accrue to the Government: for, if the only object be to

put dollars into the Treasury, the actual settler, under the provisions of this bill, would pay as much as the speculator; while, on the other hand, encouragement would be given to a most interesting and meritorious class of our fellow-citizens, the cultivators of the soil.

Mr. NOBLE said that, as the subject had been brought under the consideration of the Senate, he could not remain in silence, especially on account of the expressions uttered by the gentleman from New Hampshire, that it would be better to leave the public lands to a general scramble than to pass this bill. The entering wedge (said Mr. N.) has now been introduced, and the citizens of the new States are to be left at the mercy of the tomahawk and scalping knife. The surveys of the public lands are to be checked in the first place, (alluding to Mr. Foot's proposition,) and now pre-emption is denied to actual settlers; a scramble for the lands is next proposed. The history of the sale of the public lands commenced at the Congress held in New York. These lands were at one time sold at twelve and a half cents per acre, and although the possessors of them have risked their lives in settling them, yet we are told that it would be better to have a general scramble for these lands than to pass the proposed bill. He hoped that we would feel for the people thus situated, and who have risked so much in making the settlements which they ask the privilege of buying. Without money, without clothes, without bread, they have settled this country, and now they are told that the surveys of the land must cease. The partition of these lands was first commenced by forming townships, and now they are narrowed down into eighty acres. But now surveys are to cease, emigration to be checked, the actual settlers to be turned off; the plough and the sickle are to be broken into pieces. We (said Mr. N.) will resist this attempt. It is said that the people are violators of the public land laws, and would, if this bill were passed, injure the sale of these lands, by deterring purchasers from bidding for them. He, (Mr. N.,) on the contrary, asserted that, instead of diminishing, they augmented the value of these lands.

The bill was then postponed to Tuesday week.

#### TUESDAY, JANUARY 5.

##### *Massachusetts Claim.*

Mr. SILSBEE rose and said, that, agreeably to notice given yesterday, he was about to ask leave to introduce a bill, entitled "A bill to authorize the payment of the claims of the State of Massachusetts for certain militia services during the late war;" but as this claim, which had been so long in Congress, had never been before this branch of it, he was induced to accompany its introduction here by a remark or two in relation to it. The subject of this claim, he said, had been embraced in every

annual message of the Chief Magistrate of Massachusetts, and had occupied a portion of the attention of every successive Legislature of that State, for some time past; that this consideration, in connection with the interest and the feelings of the people of Massachusetts upon the subject, made it the duty of their Representatives here to press it upon the early consideration of the Senate, without waiting longer for the action of the other House upon it. Massachusetts, one of the oldest States of the Union, had presented a claim upon the Government of the United States, for military expenditures in the course of the late war, to an amount exceeding eight hundred thousand dollars. This claim had been considered an equitable one, not only by that administration of the Government of Massachusetts under which it originated, but by every succeeding administration of the State, from that period of time to the present one, and after twelve or thirteen years' application for a remuneration of the claim, a bill was reported, about two years ago, for two hundred and forty odd thousand dollars, or a little over one-quarter of its amount. This bill (said Mr. S.) was accompanied by a report from the most scrutinizing officer of the War Department, stating this amount, at least, to be due, according to the most rigid principles which had ever been adopted in the adjustment of any similar claim whatever; and although nearly or quite two years had elapsed since that report was made, it has not been acted upon; yet, while this claim of Massachusetts had been pending before Congress, most, if not all, those of a similar character, from other States, had, he believed, been settled. Massachusetts (said Mr. S.) asks and expects the same measure of justice to be rendered to her which has been accorded to those other States; and she asks also, and asks earnestly, for a decision upon her claim. It has, therefore, in the opinion of her delegation, become their duty to urge it to a settlement, and to express their desire that an early report and decision may be had upon it in the Senate. With this explanation, he asked leave to introduce the bill.

The leave was granted, and the bill was read and ordered to a second reading.

#### TUESDAY, JANUARY 19.

##### *Mr. Foot's Resolution to Inquire into the Expediency of Suspending the Sales of the Public Lands.\**

Mr. HAYNE said, I have not risen, Mr. President, for the purpose of discussing the propriety

\* This resolution was, in itself, but a simple proposed inquiry into the expediency of a temporary suspension of the sales of the public lands, and as such inquiry presented but a narrow field of discussion and but transient topics of debate. But it was soon made to take another turn, and to develop a topic of great and abiding interest—the doctrine of nullification! and its sequence—the dissolution of the

JANUARY, 1830.]

*Mr. Foot's Resolution—Public Lands.*

[SENATE.]

of instituting the inquiry recommended by the resolution, but to offer a few remarks on another and much more important question, to which gentlemen have alluded in the course of this debate—I mean the policy which ought to be pursued in relation to the public lands. The object of the remarks I am about to offer is merely to call public attention to the question, to throw out a few crude and undigested thoughts, as food for reflection, in order to prepare the public mind for the adoption, at no distant day, of some fixed and settled policy in relation to the public lands. I believe that, out of the Western country, there is no subject in the whole range of our legislation less understood, and in relation to which there exists so many errors, and such unhappy prejudices and misconceptions.

There may be said to be two great parties in this country, who entertain very opposite opinions in relation to the character of the policy which the Government has heretofore pursued, in relation to the public lands, as well as to that which ought, hereafter, to be pursued. I propose, very briefly, to examine these opinions, and to throw out for consideration a few ideas in connection with them. Adverting first, to the past policy of the Government, we find that one party, embracing a very large portion, perhaps at this time a majority of the people of the United States, in all quarters of the Union, entertain the opinion, that, in the set-

tlement of the new States and the disposition of the public lands, Congress has pursued not only a highly just and liberal course, but one of extraordinary kindness and indulgence. We are regarded as having acted towards the new States in the spirit of parental weakness, granting to froward children, not only every thing that was reasonable and proper, but actually robbing ourselves of our property to gratify their insatiable desires. While the other party, embracing the entire West, insist that we have treated them, from the beginning, not like heirs of the estate, but in the spirit of a hard task-master, resolved to promote our selfish interests from the fruit of their labor. Now, sir, it is not my present purpose to investigate all the grounds on which these opposite opinions rest; I shall content myself with noticing one or two particulars, in relation to which it has long appeared to me, that the West have had some cause for complaint. I notice them now, not for the purpose of aggravating the spirit of discontent in relation to this subject, which is known to exist in that quarter—for I do not know that my voice will ever reach them—but to assist in bringing others to what I believe to be a just sense of the past policy of the Government in relation to this matter. In the creation and settlement of the new States, the plan has been invariably pursued, of selling out, from time to time, certain portions of the public lands, for the highest price that could possibly be obtained for them in open market, and, until a few years past, on long credits. In this respect, a marked difference is observable between our policy and that of every other nation that has ever attempted to establish colonies or to create new States. Without pausing to examine the course pursued in this respect at earlier periods in the history of the world, I will come directly to the measures adopted in the first settlement of the new world, and will confine my observations entirely to North America. The English, the French, and the Spaniards, have successively planted their colonies here, and have all adopted the same policy, which, from the very beginning of the world, had always been found necessary in the settlement of new countries, viz: A free grant of lands, "without money and without price." We all know that the British colonies, at their first settlement here, (whether deriving title directly from the crown or the lords proprietors,) received grants for considerations merely nominal.

The payment of "a penny," or a "pepper corn," was the stipulated price which our fathers along the whole Atlantic coast, now composing the old thirteen States, paid for their lands, and even when conditions, seemingly more substantial, were annexed to the grants; such for instance as "settlement and cultivation." These were considered as substantially complied with, by the cutting down a few trees and erecting a log cabin—the work of only a few days. Even these conditions very

Union at the will of any one State. Mr. Webster and Mr. Hayne (with whom it began) were the prominent speakers on this new and startling topic; and, what was said upon it by themselves and others, is all that retains a surviving interest at this day, or gave celebrity to the debate at the time, and is the only part of it which comes within the scope of this abridgment. Mr. Hayne, in opposing Mr. Foot's resolution, took occasion to go into the consideration of the future disposition of the public lands, suggesting their transfer on easy terms to the new States in which they lie and for the benefit of settlers and cultivators, and deprecating their sale for money, either to accumulate in the Treasury, or to be divided among the States, as leading to corruption and consolidation. Mr. Webster, in reply, took up this point in Mr. Hayne's speech, and argued that consolidation was not the danger which threatened these States, but the contrary—Disunion! and referred to language and proceedings in South Carolina, unwise in their import, and tending to this dire extremity. With equal decorum and justice, (for there was nothing to implicate Mr. Hayne in any of this language or conduct,) Mr. Webster formally exonerated him from all complicity in the supposed design. But he implicated others, and that quite distinctly—friends of Mr. Hayne—some of whom were absent, and unconscious of what was said; and one of whom was present, and bound to hear all that was said, and to be silent—his position forbidding him to engage in Senatorial discussion—(Mr. Calhoun, Vice President of the United States, and President of the Senate.) The generous spirit of Mr. Hayne came to the defence of friends who could not speak for themselves. He spoke for them; and that brought on the great debate on Nullification and Disunion—of such absorbing interest at the time, and to which subsequent events have lent a great additional emphasis.



soon came to be considered as merely nominal, and were never required to be pursued, in order to vest in the grantee the fee simple of the soil. Such was the system under which this country was originally settled, and under which the thirteen colonies flourished and grew up to that early and vigorous manhood, which enabled them in a few years to achieve their independence; and I beg gentlemen to recollect, and note the fact, that, while they paid substantially nothing to the mother country, the whole profits of their industry were suffered to remain in their own hands. Now, what, let us inquire, was the reason which has induced all nations to adopt this system in the settlement of new countries? Can it be any other than this: that it affords the only certain means of building up in a wilderness, great and prosperous communities? Was not that policy founded on the universal belief, that the conquest of a new country, the driving out "the savage beasts and still more savage men," cutting down and subduing the forest, and encountering all the hardships and privations necessarily incident to the conversion of the wilderness into cultivated fields, was worth the fee simple of the soil? And was it not believed that the mother country found ample remuneration for the value of the land so granted in the additions to her power and the new sources of commerce and of wealth, furnished by prosperous and populous States? Now, sir, I submit to the candid consideration of gentlemen, whether the policy so diametrically opposite to this, which has been invariably pursued by the United States towards the new States in the West, has been quite so just and liberal, as we have been accustomed to believe. Certain it is, that the British colonies to the north of us, and the Spanish and French to the south and west, have been fostered and reared up under a very different system. Lands, which had been for fifty or a hundred years open to every settler, without any charge beyond the expense of the survey, were, the moment they fell into the hands of the United States, held up for sale at the highest price that a public auction, at the most favorable seasons, and not unfrequently a spirit of the wildest competition, could produce, with a limitation that they should never be sold below a certain minimum price; thus making it, as it would seem, the cardinal point of our policy, not to settle the country, and facilitate the formation of new States, but to fill our coffers by coining our lands into gold.

In coming to the consideration of the next great question, what ought to be the future policy of the Government in relation to the public lands? we find the most opposite and irreconcilable opinions between the two parties which I have before described. On the one side it is contended that the public land ought to be reserved as a permanent fund for revenue, and future distribution among the States; while, on the other, it is insisted that the whole of these lands of right belong to, and ought to be

relinquished to, the States in which they lie. I shall proceed to throw out some ideas in relation to the proposed policy, that the public lands ought to be reserved for these purposes. It may be a question, Mr. President, how far it is possible to convert the public lands into a great source of revenue. Certain it is, that all the efforts heretofore made, for this purpose, have most signally failed. The harshness, if not injustice of the proceeding, puts those upon whom it is to operate upon the alert, to contrive methods of evading and counteracting our policy, and hundreds of schemes, in the shape of appropriations of lands for roads, canals, and schools, grants to actual settlers, &c., are resorted to for the purpose of controlling our operations. But, sir, let us take it for granted that we will be able, hereafter, to resist these applications, and to reserve the whole of your lands, for fifty or for a hundred years, or for all time to come, to furnish a great fund for permanent revenue, is it desirable that we should do so? Will it promote the welfare of the United States to have at our disposal a permanent treasury, not drawn from the pockets of the people, but to be derived from a source independent of them? Would it be safe to confide such a treasury to the keeping of our national rulers? to expose them to the temptations inseparable from the direction and control of a fund which might be enlarged or diminished almost at pleasure, without imposing burthens upon the people? Sir, I may be singular—perhaps I stand alone here in the opinion, but it is one I have long entertained, that one of the greatest safeguards of liberty is a jealous watchfulness on the part of the people, over the collection and expenditure of the public money—a watchfulness that can only be secured where the money is drawn by taxation directly from the pockets of the people. Every scheme or contrivance by which rulers are able to procure the command of money by means unknown to, unseen or unfelt by, the people, destroys this security. Even the revenue system of this country, by which the whole of our pecuniary resources are derived from indirect taxation, from duties upon imports, has done much to weaken the responsibility of our federal rulers to the people, and has made them, in some measure, careless of their rights, and regardless of the high trust committed to their care. Can any man believe, sir, that, if twenty-three millions per annum were now levied by direct taxation, or by an apportionment of the same among the States, instead of being raised by an indirect tax, of the severe effect of which few are aware, that the waste and extravagance, the unauthorized imposition of duties, and appropriations of money for unconstitutional objects, would have been tolerated for a single year? My life upon it, sir, they would not. I distrust, therefore, sir, the policy of creating a great permanent national treasury, whether to be derived from public lands or from any other source. If I had, sir, the powers of a magician,

JANUARY, 1830.]

*Mr. Foot's Resolution—Public Lands.*

[SENATE.]

and could, by a wave of my hand, convert this capitol into gold for such a purpose, I would not do it. If I could, by a mere act of my will, put at the disposal of the Federal Government any amount of treasure which I might think proper to name, I should limit the amount to the means necessary for the legitimate purposes of the Government. Sir, an immense national treasury would be a fund for corruption. It would enable Congress and the Executive to exercise a control over States, as well as over great interests in the country, nay, even over corporations and individuals—utterly destructive of the purity, and fatal to the duration of our institutions. It would be equally fatal to the sovereignty and independence of the States. Sir, I am one of those who believe that the very life of our system is the independence of the States, and that there is no evil more to be deprecated than the consolidation of this Government. It is only by a strict adherence to the limitations imposed by the constitution on the Federal Government, that this system works well, and can answer the great ends for which it was instituted. I am opposed, therefore, in any shape, to all unnecessary extension of the powers, or the influence of the Legislature or Executive of the Union over the States, or the people of the States; and, most of all, I am opposed to those partial distributions of favors, whether by legislation or appropriation, which has a direct and powerful tendency to spread corruption through the land; to create an abject spirit of dependence; to sow the seeds of dissolution; to produce jealousy among the different portions of the Union, and finally to sap the very foundations of the Government itself.

Sir, there is another scheme in relation to the public lands, which, as it addresses itself to the interested and selfish feelings of our nature, will doubtless find many advocates. I mean the distribution of the public lands among the States, according to some ratio hereafter to be settled. Sir, this system of distribution is, in all its shapes, liable to many and powerful objections. I will not go into them at this time, because the subject has recently undergone a thorough discussion in the other House, and because, from present indications, we shall shortly have up the subject here. "Sufficient unto the day is the evil thereof."

What, then, (asked Mr. H.,) is our true policy on this important subject? I do not profess to have formed any fixed or settled opinions in relation to it. The time has not yet arrived when that question must be decided; and I must reserve for further lights, and more mature reflection, the formation of a final judgment. The public debt must be first paid. For this, these lands have been solemnly pledged to the public creditors. This done, which, if there be no interference with the Sinking Fund, will be effected in three or four years, the question will then be fairly open, to be disposed of as Congress and the country may think just and

proper. Without attempting to indicate precisely what our policy ought then to be, I will, in the same spirit which has induced me to throw out the desultory thoughts which I have now presented to the Senate, suggest for consideration, whether it will not be sound policy, and true wisdom, to adopt a system of measures looking to the final relinquishment of these lands on the part of the United States, to the States in which they lie, on such terms and conditions as may fully indemnify us for the cost of the original purchase, and all the trouble and expense to which we may have been put on their account. Giving up the plan of using these lands forever as a fund either for revenue or distribution, ceasing to hug them as a great treasure, renouncing the idea of administering them with a view to regulate and control the industry and population of the States, or of keeping in subjection and dependence the States, or the people of any portion of the Union, the task will be comparatively easy of striking out a plan for the final adjustment of the land question on just and equitable principles. Perhaps, sir, the lands ought not to be entirely relinquished to any State until she shall have made considerable advances in population and settlement. Ohio has probably already reached that condition. The relinquishment may be made by a sale to the State, at a fixed price, which I will not say should be nominal; but certainly I should not be disposed to fix the amount so high as to keep the States for any length of time in debt to the United States. In short, our whole policy in relation to the public lands may perhaps be summed up in the declaration with which I set out, that they ought not to be kept and retained forever as a great treasure, but that they should be administered chiefly with a view to the creation, within reasonable periods, of great and flourishing communities, to be formed into free and independent States; to be vested in due season with the control of all the lands within their respective limits.

[Here the debate closed for this day.]

WEDNESDAY, January 20.

*The Debate Continued.*

The Senate resumed the consideration of the resolution of Mr. Foot, which was the subject of discussion yesterday.

Mr. WEBSTER said: I now proceed, sir, to some of the opinions expressed by the gentleman from South Carolina. Two or three topics were touched by him, in regard to which he expressed sentiments in which I do not at all concur.

In the first place, sir, the honorable gentleman spoke of the whole course and policy of the Government towards those who have purchased and settled the public lands, and seemed to think this policy wrong. He held it to have been from the first, hard and rigorous; he was

of opinion that the United States had acted towards those who had subdued the Western wilderness, in the spirit of a step-mother; that the public domain had been improperly regarded as a source of revenue; and that we had rigidly compelled payment for that which ought to have been given away. He said we ought to have followed the analogy of other Governments, which had acted on a much more liberal system than ours, in planting colonies. He dwelt particularly upon the settlement of America by colonists from Europe; and reminded us that their Governments had not exacted from these colonists payment for the soil; with them, he said, it had been thought that the conquest of the wilderness was, itself, an equivalent for the soil; and he lamented that we had not followed the example, and pursued the same liberal course towards our own emigrants to the West.

Now, sir, I deny altogether, that there has been any thing harsh or severe in the policy of the Government towards the new States of the West. On the contrary, I maintain that it has uniformly pursued towards those States, a liberal and enlightened system, such as its own duty allowed and required, and such as their interests and welfare demanded. The Government has been no step-mother to the new States; she has not been careless of their interests, nor deaf to their requests; but from the first moment, when the territories which now form those States, were ceded to the Union, down to the time in which I am now speaking, it has been the invariable object of the Government to dispose of the soil, according to the true spirit of the obligation under which it received it; to hasten its settlement and cultivation, as far and as fast as practicable, and to rear the new communities into equal and independent States, at the earliest moment of their being able, by their numbers, to form a regular government.

I do not admit, sir, that the analogy to which the gentleman refers is just, or that the cases are at all similar. There is no resemblance between the cases upon which a statesman can found an argument. The original North American colonists either fled from Europe, like our New England ancestors, to avoid persecution, or came hither at their own charges, and often at the ruin of their fortunes, as private adventurers. Generally speaking, they derived neither succor nor protection from their governments at home. Wide, indeed, is the difference between those cases and ours. From the very origin of the Government, these Western lands, and the just protection of those who had settled or should settle on them, have been the leading objects in our policy, and have led to expenditures, both of blood and treasure, not inconsiderable; not indeed exceeding the importance of the object, and not yielded grudgingly or reluctantly certainly; but yet not inconsiderable, though necessary sacrifices, made for high proper ends. The Indian title has

been extinguished at the expense of many millions. Is that nothing? There is still a much more material consideration. These colonies, if we are to call them so, in passing the Alleghany, did not pass beyond the care and protection of their own Government. Wherever they went, the public arm was still stretched over them. A parental Government at home was still ever mindful of their condition, and their wants; and nothing was spared which a just sense of their necessities required. Is it forgotten that it was one of the most arduous duties of the Government, in its earliest years, to defend the frontiers against the Northwestern Indians? Are the sufferings and misfortunes under Harmer and St. Clair not worthy to be remembered? Do the occurrences connected with these military efforts show an unfeeling neglect of Western interests? And here, sir, what becomes of the gentleman's analogy? What English armies accompanied our ancestors to clear the forests of a barbarous foe? What treasures of the exchequer were expended in buying up the original title to the soil? What governmental arm held its agis over our fathers' heads, as they pioneered their way in the wilderness? Sir, it was not till General Wayne's victory in 1794, that it could be said we had conquered the savages. It was not till that period that the Government could have considered itself as having established an entire ability to protect those who should undertake the conquest of the wilderness. And here, sir, at the epoch of 1794, let us pause, and survey the scene. It is now thirty-five years since that scene actually existed. Let us, sir, look back, and behold it. Over all that is now Ohio, there then stretched one vast wilderness, unbroken, except by two small spots of civilized culture, the one at Marietta, and the other at Cincinnati. At these little openings, hardly each a pin's point upon the map, the arm of the frontiersman had levelled the forest, and let in the sun. These little patches of earth, and themselves almost shadowed by the overhanging boughs of that wilderness which had stood and perpetuated itself, from century to century, ever since the creation, were all that had then been rendered verdant by the hand of man. In an extent of hundreds and thousands of square miles, no other surface of smiling green attested the presence of civilization. The hunter's path crossed mighty rivers, flowing in solitary grandeur, whose sources lay in remote and unknown regions of the wilderness. It struck, upon the north, on a vast inland sea, over which the wintry tempests raged as on the ocean; all around was bare creation. It was a fresh, untouched, unbounded, magnificent wilderness! And, sir, what is it now? Is it imagination only, or can it possibly be fact, that presents such a change, as surprises and astonishes us, when we turn our eyes to what Ohio now is? Is it a reality, or a dream, that, in so short a period even as thirty-five years, there has

JANUARY, 1880.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

sprung up, on the same surface, an independent State, with a million of people? A million of inhabitants! an amount of population greater than that of all the cantons of Switzerland; equal to one-third of all the people of the United States, when they undertook to accomplish their independence. This new member of the republic has already left far behind her a majority of the old States. She is now by the side of Virginia and Pennsylvania; and in point of numbers, will shortly admit no equal but New York herself.

But there was another observation of the honorable member, which, I confess, did not a little surprise me. As a reason for wishing to get rid of the public lands as soon as we could, and as we might, the honorable gentleman said, he wanted no permanent sources of income. He wished to see the time when the Government should not possess a shilling of permanent revenue. If he could speak a magical word, and by that word convert the whole capitol into gold, the word should not be spoken. The administration of a fixed revenue, (he said,) only consolidates the Government, and corrupts the people! Sir, I confess I heard these sentiments uttered on this floor not without deep regret and pain.

I am aware that these, and similar opinions, are espoused by certain persons out of the capitol, and out of this Government; but I did not expect so soon to find them here. Consolidation!—that perpetual cry, both of terror and delusion—consolidation! Sir, when gentlemen speak of the effects of a common fund, belonging to all the States, as having a tendency to consolidation, what do they mean? Do they mean, or can they mean, any thing more than that the Union of the States will be strengthened, by whatever continues or furnishes inducements to the people of the States to hold together? If they mean merely this, then, no doubt, the public lands as well as every thing else in which we have a common interest, tends to consolidation; and to this species of consolidation every true American ought to be attached; it is neither more nor less than strengthening the Union itself. This is the sense in which the framers of the constitution use the word consolidation; and in which sense I adopt and cherish it. They tell us, in the letter submitting the constitution to the consideration of the country, that, "in all our deliberations on this subject, we kept steadily in our view that which appears to us the greatest interest of every true American—the consolidation of our Union—in which is involved our prosperity, felicity, safety; perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each State in the convention to be less rigid, on points of inferior magnitude, than might have been otherwise expected."

This, sir, is General Washington's consolidation. This is the true constitutional consolidation. I wish to see no new powers drawn to

the General Government; but I confess I rejoice in whatever tends to strengthen the bond that unites us, and encourages the hope that our Union may be perpetual. And, therefore, I cannot but feel regret at the expression of such opinions as the gentleman has avowed; because I think their obvious tendency is to weaken the bond of our connection. I know that there are some persons in the part of the country from which the honorable member comes, who habitually speak of the Union in terms of indifference, or even of disparagement. The honorable member himself is not, I trust, and can never be, one of these. They significantly declare, that it is time to calculate the value of the Union; and their aim seems to be to enumerate, and to magnify all the evils, real and imaginary, which the Government under the Union produces.

The tendency of all these ideas and sentiments is obviously to bring the Union into discussion, as a mere question of present and temporary expediency; nothing more than a mere matter of profit and loss. The Union to be preserved, while it suits local and temporary purposes to preserve it; and to be sundered whenever it shall be found to thwart such purposes. Union, of itself, is considered by the disciples of this school as hardly a good. It is only regarded as a possible means of good; or, on the other hand, as a possible means of evil. They cherish no deep and fixed regard for it, flowing from a thorough conviction of its absolute and vital necessity to our welfare. Sir, I deprecate and deplore this tone of thinking and acting. I deem far otherwise of the Union of the States; and so did the framers of the constitution themselves. What they said I believe; fully and sincerely believe, that the Union of the States is essential to the prosperity and safety of the States. I am a Unionist, and in this sense a National Republican. I would strengthen the ties that hold us together. Far, indeed, in my wishes, very far distant be the day, when our associated and fraternal stripes shall be severed asunder, and when that happy constellation under which we have risen to so much renown, shall be broken up, and be seen sinking, star after star, into obscurity and night!

MONDAY, JANUARY 25.

*Mr. Foot's Resolution—Nullification.*

[The following are the remarks of Mr. HAYNE as delivered on Thursday and to-day.]

Mr. HAYNE began by saying, that when he took occasion, two days ago, to throw out some ideas with respect to the policy of the Government in relation to the public lands, nothing certainly could have been further from his thoughts than that he should be compelled again to throw himself upon the indulgence of the Senate. Little did I expect, said Mr. H., to be called upon to meet such an argument as was yesterday urged by the gentleman from

Massachusetts, (Mr. WEBSTER.) Sir, I questioned no man's opinions; I impeached no man's motives; I charged no party, or State, or section of country, with hostility to any other; but ventured, I thought in a becoming spirit, to put forth my own sentiments in relation to a great national question of public policy. Such was my course.

The Senator from Massachusetts tells us that the tariff is not an Eastern measure, and treats it as if the East had no interest in it. The Senator from Missouri insists it is not a Western measure, and that it has done no good to the West. The South comes in, and in the most earnest manner represents to you, that this measure, which we are told "is of no value to the East or West," is "utterly destructive of our interests." We represent to you, that it has spread ruin and devastation through the land, and prostrated our hopes in the dust. We solemnly declare that we believe the system to be wholly unconstitutional, and a violation of the compact between the States and the Union, and our brethren turn a deaf ear to our complaints, and refuse to relieve us from a system "which not enriches them, but makes us poor indeed." Good God! has it come to this? Do gentlemen hold the feelings and wishes of their brethren at so cheap a rate, that they refuse to gratify them at so small a price? Do gentlemen value so lightly the peace and harmony of the country, that they will not yield a measure of this description, to the affectionate entreaties and earnest remonstrances of their friends? Do gentlemen estimate the value of the Union at so low a price, that they will not even make one effort to bind the States together with the cords of affection? And has it come to this? Is this the spirit in which this Government is to be administered? If so, let me tell gentlemen the seeds of dissolution are already sown, and our children will reap the bitter fruit.

The honorable gentleman from Massachusetts, (Mr. WEBSTER,) while he exonerates me personally from the charge, intimates that there is a party in the country who are looking to disunion. Sir, if the gentleman had stopped there, the accusation would "have passed by me as the idle wind which I regard not." But, when he goes on to give to his accusation a local habitation and a name, by quoting the expression of a distinguished citizen of South Carolina, (Dr. Cooper,) "that it was time for the South to calculate the value of the Union," and, in the language of the bitterest sarcasm, adds, "surely then the Union cannot last longer than July, 1851," it is impossible to mistake either the allusion or the object of the gentleman. Now I call upon every one who hears me, to bear witness that this controversy is not of my seeking. The Senate will do me the justice to remember, that, at the time this unprovoked and uncalled-for attack was made upon the South, not one word had been uttered by me in disparagement of New England. nor

had I made the most distant allusion, either to the Senator from Massachusetts, or the State he represents. But, sir, that gentleman has thought proper, for purposes best known to himself, to strike the South through me, the most unworthy of her servants. He has crossed the border, he has invaded the State of South Carolina, is making war upon her citizens, and endeavoring to overthrow her principles and her institutions. Sir, when the gentleman provokes me to such a conflict, I meet him at the threshold. I will struggle while I have life, for our altars and our firesides, and if God gives me strength, I will drive back the invader discomfited. Nor shall I stop there. If the gentleman provokes the war, he shall have war. Sir, I will not stop at the border; I will carry the war into the enemy's territory, and not consent to lay down my arms, until I shall have obtained "indemnity for the past, and security for the future." It is with unfeigned reluctance that I enter upon the performance of this part of my duty. I shrink almost instinctively from a course, however necessary, which may have a tendency to excite sectional feelings, and sectional jealousies. But, sir, the task has been forced upon me, and I proceed right onward to the performance of my duty; be the consequences what they may, the responsibility is with those who have imposed upon me this necessity. The Senator from Massachusetts has thought proper to cast the first stone, and if he shall find, according to a homely adage, "that he lives in a glass house," on his head be the consequences. The gentleman has made a great flourish about his fidelity to Massachusetts. I shall make no professions of zeal for the interests and honor of South Carolina—of that my constituents shall judge. If there be one State in this Union (and I say it not in a boastful spirit) that may challenge comparison with any other for a uniform, zealous, ardent, and uncalculating devotion to the Union, that State is South Carolina. Sir, from the very commencement of the revolution, up to this hour, there is no sacrifice, however great, she has not cheerfully made; no service she has ever hesitated to perform. She has adhered to you in your prosperity, but in your adversity she has clung to you with more than filial affection. No matter what was the condition of her domestic affairs, though deprived of her resources, divided by parties, or surrounded by difficulties, the call of the country has been to her as the voice of God. Domestic discord ceased at the sound—every man became at once reconciled to his brethren, and the sons of Carolina were all seen crowding together to the temple, bringing their gifts to the altar of their common country. What, sir, was the conduct of the South during the revolution? Sir, I honor New England for her conduct in that glorious struggle. But great as is the praise which belongs to her, I think at least equal honor is due to the South. They espoused the quarrel of their brethren

JANUARY, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

with a generous zeal, which did not suffer them to stop to calculate their interest in the dispute. Favorites of the mother country, possessed of neither ships nor seamen to create commercial rivalry, they might have found in their situation a guarantee that their trade would be forever fostered and protected by Great Britain. But trampling on all considerations, either of interest or of safety, they rushed into the conflict, and, fighting for principle, perilled all in the sacred cause of freedom. Never was there exhibited, in the history of the world, higher examples of noble daring, dreadful suffering, and heroic endurance, than by the whigs of Carolina, during that revolution. The whole State, from the mountains to the sea, was overrun by an overwhelming force of the enemy. The fruits of industry perished on the spot where they were produced, or were consumed by the foe. The "plains of Carolina" drank up the most precious blood of her citizens! Black and smoking ruins marked the places which had been the habitations of her children! Driven from their homes, into the gloomy and almost impenetrable swamps, even there the spirit of liberty survived, and South Carolina (sustained by the example of her Sumters and her Marions) proved by her conduct, that, though her soil might be overrun, the spirit of her people was invincible.

The Senator from Massachusetts, in denouncing what he is pleased to call the Carolina doctrine, has attempted to throw ridicule upon the idea that a State has any constitutional remedy, by the exercise of its sovereign authority, against "a gross, palpable, and deliberate violation of the constitution." He calls it "an idle" or "a ridiculous notion," or something to that effect, and added, it would make the Union "a mere rope of sand." Now, sir, as the gentleman has not condescended to enter into any examination of the question, and has been satisfied with throwing the weight of his authority into the scale, I do not deem it necessary to do more than to throw into the opposite scale the authority on which South Carolina relies, and there, for the present, I am perfectly willing to leave the controversy. The South Carolina doctrine, that is to say, the doctrine contained in an exposition reported by a committee of the Legislature in December, 1823, and published by their authority, is the good old Republican doctrine of '98; the doctrine of the celebrated "Virginia Resolutions" of that year, and of "Madison's Report" of '99. It will be recollected that the Legislature of Virginia, in December, '98, took into consideration the alien and sedition laws, then considered by all Republicans as a gross violation of the Constitution of the United States, and on that day passed, among others, the following resolution:

"The General Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact

to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no further valid than they are authorized by the grants enumerated in that compact, and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights, and liberties, appertaining to them."

In addition to these resolutions, the General Assembly of Virginia "appealed to the other States, in the confidence that they would concur with that Commonwealth that the acts aforesaid [the alien and sedition laws] are unconstitutional, and that the necessary and proper measures would be taken by each for co-operating with Virginia in maintaining unimpaired the authorities, rights, and liberties, reserved to the States, respectively, or to the people."

The Legislatures of several of the New England States having, contrary to the expectation of the Legislature of Virginia, expressed their dissent from these doctrines, the subject came up again for consideration, during the session of 1799, 1800, when it was referred to a Select Committee, by whom was made that celebrated report which is familiarly known as "Madison's Report," and which deserves to last as long as the constitution itself. In that report, which was subsequently adopted by the Legislature, the whole subject was deliberately re-examined, and the objections urged against the Virginia doctrines carefully considered. The result was, that the Legislature of Virginia re-affirmed all the principles laid down in the resolutions of 1798, and issued to the world that admirable report which has stamped the character of Mr. Madison as the preserver of that constitution which he had contributed so largely to create and establish. I will here quote, from Mr. Madison's report, one or two passages which bear more immediately on the point in controversy:

"The resolution, having taken this view of the federal compact, proceeds to infer 'that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States, who are parties thereto, have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them.'"

"It appears to your committee to be a plain principle, founded on common sense, illustrated by common practice, and essential to the nature of compacts, that, where resort can be had to no tribunal superior to the authority of the parties, the parties themselves must be the rightful judges, in the last resort, whether the bargain made, has been pursued or violated. The Constitution of the United States was formed by the sanction of the States, given by each, in its sovereign capacity. It adds to the stability and dignity, as well as to the authority of the constitution, that it rests on this legitimate and solid

foundation. The States, then, being the parties to the constitutional compact, and in their sovereign capacity, it follows, of necessity, that there can be no tribunal, above their authority, to decide, in the last resort, whether the compact made by them be violated; and, consequently, that, as the parties to it, they must, themselves, decide in the last resort, such questions as may be of sufficient magnitude to require their interposition."

"The resolution has guarded against any misapprehension of its object, by expressly requiring, for such an interposition, 'the case of a deliberate, palpable, and dangerous breach of the constitution, by the exercise of powers not granted by it.' It must be a case, not of a light and transient nature, but of a nature dangerous to the great purposes for which the constitution was established."

"But the resolution has done more than guard against misconstruction, by expressly referring to cases of a deliberate, palpable, and dangerous nature. It specifies the object of the interposition, which it contemplates to be, solely, that of arresting the progress of the evil of usurpation, and of maintaining the authorities, rights, and liberties, appertaining to the States, as parties to the constitution."

"From this view of the resolution, it would seem inconceivable that it can incur any just disapprobation from those who, laying aside all momentary impressions, and recollecting the genuine source and object of the federal constitution, shall candidly and accurately interpret the meaning of the General Assembly. If the deliberate exercise of dangerous powers, palpably withheld by the constitution, could not justify the parties to it in interposing, even so far as to arrest the progress of the evil, and thereby to preserve the constitution itself, as well as to provide for the safety of the parties to it, there would be an end to all relief from usurped power, and a direct subversion of the rights specified or recognized under all the State constitutions, as well as a plain denial of the fundamental principles on which our independence itself was declared."

But, sir, our authorities do not stop here. The State of Kentucky responded to Virginia, and, on the 10th of November, 1798, adopted those celebrated resolutions, well known to have been penned by the author of the Declaration of American Independence. In those resolutions, the Legislature of Kentucky declare "that the Government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions, as of the mode and measure of redress."

At the ensuing session of the Legislature, the subject was re-examined, and, on the 14th of November, 1799, the resolutions of the preceding year were deliberately re-affirmed, and it was, among other things, solemnly declared, "that, if those who administer the General Government be permitted to transgress the limits fixed by that compact, by a total disregard to the special delegations of power therein

contained, an annihilation of the State Governments, and the erection, upon their ruins, of a General consolidated Government, will be the inevitable consequence. That the principle and construction contended for, by several of the State Legislatures, that the General Government is the exclusive judge of the extent of the powers delegated to it, stop nothing short of despotism; since the discretion of those who administer the Government, and not the constitution, would be the measure of their powers. That the several States who formed that instrument, being sovereign and independent, have the unquestionable right to judge of its infraction; and, that a nullification, by those sovereignties, of all unauthorized acts, done under color of that instrument, is the rightful remedy."

Time and experience confirmed Mr. Jefferson's opinion on this all-important point. In the year 1821, he expressed himself in this emphatic manner: "It is a fatal heresy to suppose that either our State Governments are superior to the Federal, or the Federal to the State; neither is authorized literally to decide which belongs to itself or its co-partner in Government; in differences of opinion, between their different sets of public servants, the appeal is to neither, but to their employers, peaceably assembled by their representatives in convention." The opinions of Mr. Jefferson, on this subject, have been so repeatedly and so solemnly expressed, that they may be said to have been the most fixed and settled convictions of his mind.

In the protest prepared by him for the Legislature of Virginia, in December, 1825, in respect to the powers exercised by the Federal Government in relation to the Tariff and Internal Improvements, which he declares to be "usurpations of the powers retained by the States, mere interpolations into the compact, and direct infractions of it," he solemnly re-asserts all the principles of the Virginia resolutions of '98, protests against "these acts of the Federal branch of the Government as null and void, and declares that, although Virginia would consider a dissolution of the Union as among the greatest calamities that could befall them, yet it is not the greatest. There is one yet greater: submission to a Government of unlimited powers. It is only when the hope of this shall become absolutely desperate, that further forbearance could not be indulged."

In his letter to Mr. Giles, written about the same time, he says:

"I see as you do, and with the deepest affliction, the rapid strides with which the Federal branch of our Government is advancing towards the usurpation of all the rights reserved to the States, and the consolidation in itself of all powers, foreign and domestic, and that, too, by constructions which leave no limits to their powers, &c. Under the power to regulate commerce, they assume indefinitely that also over agriculture and manufactures, &c. Under the authority to establish post roads, they claim



JANUARY, 1880.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

that of cutting down mountains for the construction of roads and digging canals, &c. And what is our resource for the preservation of the constitution? Reason and argument? You might as well reason and argue with the marble columns encircling them, &c. Are we then to stand to our arms, with the hot-headed Georgian? No—[and I say no, and South Carolina has said no]—that must be the last resource. We must have patience and long endurance with our brethren, &c., and separate from our companions only, when the sole alternatives left are a dissolution of our Union with them, or submission to a Government without limitation of powers. Between these two evils, when we must make a choice, there can be no hesitation."

Such, sir, are the high and imposing authorities in support of the "Carolina doctrine," which is, in fact, the doctrine of the Virginia resolutions of 1798.

Sir, at that day the whole country was divided on this very question. It formed the line of demarcation between the federal and republican parties, and the great political revolution which then took place turned upon the very question involved in these resolutions. That question was decided by the people, and by that decision the constitution was, in the emphatic language of Mr. Jefferson, "saved at its last gasp." I should suppose, sir, it would require more self-respect than any gentleman here would be willing to assume, to treat lightly doctrines derived from such high sources. Resting on authority like this, I will ask gentlemen whether South Carolina has not manifested a high regard for the Union, when, under a tyranny ten times more grievous than the alien and sedition laws, she has, hitherto, gone no further than to petition, remonstrate, and solemnly to protest against a series of measures which she believes to be wholly unconstitutional, and utterly destructive of her interests? Sir, South Carolina has not gone one step further than Mr. Jefferson himself was disposed to go, in relation to the very subject of our present complaints; not a step further than the statesmen from New England were disposed to go under similar circumstances; no further than the Senator from Massachusetts himself once considered as within "the limits of a constitutional opposition." The doctrine that it is the right of a State to judge of the violations of the constitution on the part of the Federal Government, and to protect her citizens from the operation of unconstitutional laws, was held by the enlightened citizens of Boston, who assembled in Faneuil Hall, on the 25th January, 1809. They state, in that celebrated memorial, that "they looked only to the State Legislature, who were competent to devise relief against the unconstitutional acts of the General Government. That your power [say they] is adequate to that object, is evident from the organization of the confederacy."

A distinguished Senator from one of the New England States, (Mr. Hillhouse,) in a speech delivered here, on a bill for enforcing the embargo, declared: "I feel myself bound

in conscience to declare, lest the blood of those who shall fall in the execution of this measure shall be on my head, that I consider this to be an act which directs a mortal blow at the liberties of my country; an act containing unconstitutional provisions, to which the people are not bound to submit, and to which, in my opinion, they will not submit."

And the Senator from Massachusetts, himself, in a speech delivered on the same subject, in the other House, said: "This opposition is constitutional and legal; it is, also, conscientious. It rests on settled and sober conviction, that such policy is destructive to the interests of the people, and dangerous to the being of the Government. The experience of every day confirms these sentiments. Men who act from such motives are not to be discouraged by trifling obstacles nor awed by any dangers. They know the limit of constitutional opposition; up to that limit, at their own discretion, they will walk, and walk fearlessly." How "the being of the Government" was to be endangered by "constitutional opposition to the embargo," I leave to the gentleman to explain.

Thus, it will be seen, said Mr. H., that the South Carolina doctrine is the republican doctrine of '98; that it was first promulgated by the fathers of the faith; that it was maintained by Virginia and Kentucky in the worst of times; that it constituted the very pivot on which the political revolution of that day turned; that it embraces the very principles the triumph of which, at that time, saved the constitution at its last gasp, and which New England statesmen were not unwilling to adopt, when they believed themselves to be the victims of unconstitutional legislation. Sir, as to the doctrine that the Federal Government is the exclusive judge of the extent, as well as the limitations of its powers, it seems to me to be utterly subversive of the sovereignty and independence of the States. It makes but little difference, in my estimation, whether Congress or the Supreme Court are invested with this power. If the Federal Government, in all or any of its departments, are to prescribe the limits of its own authority, and the States are bound to submit to the decision, and are not to be allowed to examine and decide for themselves, when the barriers of the constitution shall be overleaped, this is practically "a Government without limitation of powers." The States are at once reduced to mere petty corporations, and the people are entirely at your mercy. I have but one word more to add. In all the efforts that have been made by South Carolina to resist the unconstitutional laws which Congress has extended over them, she has kept steadily in view the preservation of the Union, by the only means by which she believes it can be long preserved—a firm, manly, and steady resistance against usurpation. The measures of the Federal Government have, it is true, prostrated her interests, and will soon involve the whole South in irretrievable ruin.



But even this evil, great as it is, is not the chief ground of our complaints. It is the principle involved in the contest—a principle which, substituting the discretion of Congress for the limitations of the constitution, brings the States and the people to the feet of the Federal Government, and leaves them nothing that they can call their own. Sir, if the measures of the Federal Government were less oppressive, we should still strive against this usurpation. The South is acting on a principle she has always held sacred—resistance to unauthorized taxation. These, sir, are the principles which induced the immortal Hampden to resist the payment of a tax of twenty shillings. Would twenty shillings have ruined his fortune? No; but the payment of half twenty shillings, on the principle on which it was demanded, would have made him a slave. Sir, if, in acting on these high motives, if, animated by that ardent love of liberty which has always been the most prominent trait in the Southern character, we should be hurried beyond the bounds of a cold and calculating prudence, who is there, with one noble and generous sentiment in his bosom, that would not be disposed, in the language of Burke, to exclaim, "You must pardon something to the spirit of liberty!"

WEDNESDAY, JANUARY 27.

*Mr. Foot's Resolution—Nullification.*

The Senate resumed the consideration of Mr. Foot's resolution.

Mr. WEBSTER said: In carrying his warfare, such as it was, into New England, the honorable gentleman all along professes to be acting on the defensive. He elects to consider me as having assailed South Carolina, and insists that he comes forth only as her champion, and in her defence. Sir, said Mr. W., I do not admit that I made any attack whatever on South Carolina. Nothing like it. The honorable member, in his first speech, expressed opinions in regard to revenue, and some other topics, which I heard both with pain and with surprise. I told the gentleman that I was aware that such sentiments were entertained out of the Government, but had not expected to find them advanced in it; that I knew there were persons in the South who speak of our Union with indifference, or doubt, taking pains to magnify its evils, and to say nothing of its benefits; that the honorable member himself, I was sure, could never be one of these; and I regretted the expression of such opinions as he had avowed, because I thought their obvious tendency was to encourage feelings of disrespect to the Union, and to weaken its connection. This, sir, is the sum and substance of all I said on the subject. And this constitutes the attack which called on the chivalry of the gentleman, in his opinion, to harry us with such a foray, among the party pamphlets and party proceed-

ings of Massachusetts! If he means that I spoke with dissatisfaction or disrespect of the ebullitions of individuals in South Carolina, it is true. But, if he means that I had assailed the character of the State, her honor, or patriotism; that I had reflected on her history or her conduct; he had not the slightest ground for any such assumption. I did not even refer, I think, in my observations, to any collection of individuals. I said nothing of the recent conventions. I spoke in the most guarded and careful manner, and only expressed my regret for the publication of opinions which I presumed the honorable member disapproved as much as myself. In this it seems I was mistaken. I do not remember that the gentleman has disclaimed any sentiment, or any opinion, of a supposed anti-union tendency, which on all, or any of the recent occasions, has been expressed. The whole drift of his speech has been rather to prove that, in divers times and manners, sentiments equally liable to my objection have been promulgated in New England. And one would suppose that his object, in this reference to Massachusetts, was to find a precedent to justify proceedings in the South, were it not for the reproach and contumely with which he labors, all along, to load these, his own chosen precedents. By way of defending South Carolina from what he chooses to think an attack on her, he first quotes the example of Massachusetts, and then denounces that example in good set terms. This twofold purpose, not very consistent with itself, one would think, was exhibited more than once in the course of his speech. He referred, for instance, to the Hartford Convention. Did he do this for authority, or for a topic of reproach? Apparently for both: for he told us that he should find no fault with the mere fact of holding such a convention, and considering and discussing such questions as he supposes were then and there discussed; but what rendered it obnoxious, was the time in which it was held, and the circumstances of the country, then existing. We were in war, he said, and the country needed all our aid; the hand of Government required to be strengthened, not weakened; and patriotism should have postponed such proceedings to another day. The thing itself, then, is a precedent; the time and manner of it only, a subject of censure. Now, sir, I go much further, on this point, than the honorable member. Supposing, as the gentleman seems to, that the Hartford Convention assembled for any such purpose as breaking up the Union, because they thought unconstitutional laws had been passed, or to consult on that subject, or to calculate the value of the Union; supposing this to be their purpose, or any part of it, then I say the meeting itself was disloyal, and was obnoxious to censure, whether held in time of peace or time of war, or under whatever circumstances. The material question is the object. Is dissolution the object? If it be, external circum-

JANUARY, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

stances may make it a more or less aggravated case, but cannot affect the principle. I do not hold, therefore, sir, that the Hartford Convention was pardonable, even to the extent of the gentleman's admission, if its objects were really such as have been imputed to it. Sir, there never was a time, under any degree of excitement, in which the Hartford Convention, or any other convention, could maintain itself one moment in New England, if assembled for any such purpose as the gentleman says would have been an allowable purpose. To hold conventions to decide questions of constitutional law! To try the binding validity of statutes, by votes in a convention! Sir, the Hartford Convention, I presume, would not desire that the honorable gentleman should be their defender or advocate, if he puts their case upon such untenable and extravagant grounds.

Then, sir, the gentleman has no fault to find with these recently promulgated South Carolina opinions. And, certainly, he need have none: for his own sentiments, as now advanced, and advanced on reflection, as far as I have been able to comprehend them, go the full length of all these opinions. I propose, sir, to say something on these, and to consider how far they are just and constitutional. Before doing that, however, let me observe, that the eulogium pronounced on the character of the State of South Carolina, by the honorable gentleman, for her revolutionary and other merits, meets my hearty concurrence. I shall not acknowledge that the honorable member goes before me in regard for whatever of distinguished talent, or distinguished character, South Carolina has produced. I claim part of the honor, I partake in the pride of her great names. I claim them for countrymen, one and all. The Laurenses, the Rutledges, the Pinckneys, the Sumters, the Marions—Americans all—whose fame is no more to be hemmed in by State lines, than their talents and patriotism were capable of being circumscribed within the same narrow limits. In their day and generation, they served and honored the country, and the whole country; and their renown is of the treasures of the whole country. Him, whose honored name the gentleman himself bears—does he suppose me less capable of gratitude for his patriotism, or sympathy for his sufferings, than if his eyes had first opened upon the light in Massachusetts, instead of South Carolina? Sir, does he suppose it in his power to exhibit a Carolina name so bright as to produce envy in my bosom? No, sir, increased gratification and delight, rather. Sir, I thank God that, if I am gifted with little of the spirit which is able to raise mortals to the skies, I have yet none, as I trust, of that other spirit, which would drag angels down. When I shall be found, sir, in my place, here in the Senate, or elsewhere, to sneer at public merit, because it happened to spring up beyond the little limits of my own State or neighborhood; when I refuse, for any such cause, or for any cause, the

homage due to American talent, to elevated patriotism, to sincere devotion to liberty and the country; or if I see an uncommon endowment of heaven—if I see extraordinary capacity and virtue in any son of the South—and if, moved by local prejudice, or gangrened by State jealousy, I get up here to abate the tithe of a hair from his just character and just fame, may my tongue cleave to the roof of my mouth!

Sir, let me recur to pleasing recollections; let me indulge in refreshing remembrances of the past; let me remind you that, in early times, no States cherished greater harmony, both of principle and feeling, than Massachusetts and South Carolina. Would to God, that harmony might again return! Shoulder to shoulder they went through the revolution—hand in hand they stood round the administration of Washington, and felt his own great arm lean on them for support. Unkind feeling, if it exist, alienation and distrust, are the growth, unnatural to such soils, of false principles since sown. They are weeds, the seeds of which that same great arm never scattered.

I shall enter on no encomiums upon Massachusetts; she needs none. There she is; behold her, and judge for yourselves. There is her history; the world knows it by heart. The past, at least, is secure. There is Boston, and Concord, and Lexington, and Bunker Hill; and there they will remain forever. The bones of her sons, fallen in the great struggle for independence, now lie mingled with the soil of every State, from New England to Georgia; and there they will lie forever. And, sir, where American liberty raised its infant voice; and where its youth was nurtured and sustained; there it still lives, in the strength of its manhood, and full of its original spirit. If discord and disunion shall wound it; if party strife and blind ambition shall hawk at and tear it; if folly and madness; if uneasiness, under salutary and necessary restraint, shall succeed to separate it from that Union, by which alone its existence is made sure, it will stand, in the end, by the side of that cradle in which its infancy was rocked; it will stretch forth its arm, with whatever of vigor it may still retain, over the friends who may gather round it; and it will fall at last, if fall it must, amidst the proudest monuments of its own glory, and on the very spot of its origin.

There yet remains to be performed, said Mr. W., by far the most grave and important duty, which I feel to be devolved on me, by this occasion. It is to state, and to defend, what I conceive to be the true principles of the constitution, under which we are here assembled. I might well have desired that so weighty a task should have fallen into other and abler hands. I could have wished that it should have been executed by those, whose character and experience give weight and influence to their opinions, such as cannot possibly belong to mine. But, sir, I have met the occasion, not

sought it; and I shall proceed to state my own sentiments, without challenging for them any particular regard, with studied plainness, and as much precision as possible.

I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State Legislatures to interfere, whenever, in their judgment, this Government transcends its constitutional limits, and to arrest the operation of its laws.

I understand him to maintain this right, as a right existing under the constitution; not as a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution.

I understand him to maintain an authority, on the part of the States, thus to interfere, for the purpose of correcting the exercise of power by the General Government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the General Government, or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each State for itself, whether, in a given case, the act of the General Government transcends its power.

I understand him to insist that, if the exigency of the case, in the opinion of any State Government, require it, such State Government may, by its own sovereign authority, annul an act of the General Government, which it deems plainly and palpably unconstitutional.

This is the sum of what I understand from him to be the South Carolina doctrine; and the doctrine which he maintains. I propose to consider it, and to compare it with the constitution. Allow me to say, as a preliminary remark, that I call this the South Carolina doctrine, only because the gentleman himself has so denominated it. I do not feel at liberty to say that South Carolina, as a State, has ever advanced these sentiments. I hope she has not, and never may. That a great majority of her people are opposed to the tariff laws, is doubtless true. That a majority, somewhat less than that just mentioned, conscientiously believe those laws unconstitutional, may probably also be true. But, that any majority holds to the right of direct State interference, at State discretion, the right of nullifying acts of Congress by acts of State legislation, is more than I know, and what I shall be slow to believe.

That there are individuals, besides the honorable gentleman, who do maintain these opinions, is quite certain. I recollect the recent expression of a sentiment, which circumstances attending its utterance and publication justify us in supposing was not unpremeditated. "The sovereignty of the State—never to be controlled, construed, or decided on, but by her own feelings of honorable justice."

[Mr. HAYNE here rose, and said that, for the purpose of being clearly understood, he would state, that his proposition was in the words of the Virginia resolution, as follows:

"That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them."]

Mr. W. resumed: I am quite aware of the existence of the resolution which the gentleman read, and has now repeated, and that he relies on it as his authority. I know the source, too, from which it is understood to have proceeded. I need not say that I have much respect for the constitutional opinions of Mr. Madison; they would weigh greatly with me, always. But, before the authority of his opinion be vouched for the gentleman's proposition, it will be proper to consider what is the fair interpretation of that resolution to which Mr. Madison is understood to have given his sanction. As the gentleman construes it, it is an authority for him. Possibly, he may not have adopted the right construction. That resolution declares, that, in the case of the dangerous exercise of powers not granted to the General Government, the States may interpose to arrest the progress of the evil. But how interpose, and what does this declaration purport? Does it mean no more than that there may be extreme cases, in which the people, in any mode of assembling, may resist usurpation, and relieve themselves from a tyrannical Government? No one will deny this. Such resistance is not only acknowledged to be just in America, but in England, also. Blackstone admits as much, in his theory, and practice, too, of the English constitution. We, sir, who oppose the Carolina doctrine, do not deny that the people may, if they choose, throw off any Government when it becomes oppressive and intolerable, and erect a better in its stead. We all know that civil institutions are established for the public benefit, and that, when they cease to answer the ends of their existence, they may be changed. But I do not understand the doctrine now contended for to be that which, for the sake of distinctness, we may call the right of revolution. I understand the gentleman to maintain, that, without revolution, without civil commotion, without rebellion, a remedy for supposed abuse and transgression of the powers of the General Government lies in a direct appeal to the interference of the State Governments. [Mr. HAYNE here rose: He did not contend, he said,

JANUARY, 1830.]

*Mr. Foote's Resolution—Nullification.*

[SENATE.]

for the mere right of revolution, but for the right of constitutional resistance. What he maintained was, that, in case of plain, palpable violation of the constitution, by the General Government, a State may interpose; and that this interposition is constitutional.] Mr. W. resumed: So, sir, I understood the gentleman, and am happy to find that I did not misunderstand him. What he contends for, is, that it is constitutional to interrupt the administration of the constitution itself, in the hands of those who are chosen and sworn to administer it, by the direct interference, in form of law, of the States, in virtue of their sovereign capacity. The inherent right in the people to reform their Government, I do not deny; and they have another right, and that is, to resist unconstitutional laws, without overturning the Government. It is no doctrine of mine, that unconstitutional laws bind the people. The great question is, whose prerogative is it to decide on the constitutionality or unconstitutionality of the laws? On that, the main debate hinges. The proposition, that, in case of a supposed violation of the constitution by Congress, the States have a constitutional right to interfere, and annul the law of Congress, is the proposition of the gentleman: I do not admit it. If the gentleman had intended no more than to assert the right of revolution, for justifiable cause, he would have said only what all agree to. But I cannot conceive that there can be a middle course, between submission to the laws, when regularly pronounced constitutional, on the one hand, and open resistance, which is revolution, or rebellion, on the other. I say, the right of a State to annul a law of Congress, cannot be maintained but on the ground of the unalienable right of man to resist oppression; that is to say, upon the ground of revolution. I admit that there is an ultimate violent remedy, above the constitution, and in defiance of the constitution, which may be resorted to, when a revolution is to be justified. But I do not admit that, under the constitution, and in conformity with it, there is any mode in which a State Government, as a member of the Union, can interfere and stop the progress of the General Government, by force of her own laws, under any circumstances whatever.

This leads us to inquire into the origin of this Government, and the source of its power. Whose agent is it? Is it the creature of the State Legislature, or the creature of the people? If the Government of the United States be the agent of the State Governments, then they may control it, provided they can agree in the manner of controlling it; if it be the agent of the people, then the people alone can control it, restrain it, modify, or reform it. It is observable enough, that the doctrine for which the honorable gentleman contends, leads him to the necessity of maintaining, not only that this General Government is the creature of the States, but that it is the creature of each of the States, severally; so that each may assert the

power, for itself, of determining whether it acts within the limits of its authority. It is the servant of four and twenty masters, of different wills and different purposes, and yet bound to obey all. This absurdity (for it seems no less) arises from a misconception as to the origin of this Government in its true character. It is, sir, the people's constitution, the people's Government; made for the people; made by the people; and answerable to the people. The people of the United States have declared that this constitution shall be the supreme law. We must either admit the proposition, or dispute their authority. The States are, unquestionably, sovereign, so far as their sovereignty is not affected by this supreme law. But the State Legislatures, as political bodies, however sovereign, are yet not sovereign over the people. So far as the people have given power to the General Government, so far the grant is unquestionably good, and the Government holds of the people, and not of the State Governments. We are all agents of the same supreme power, the people. The General Government and the State Governments derive their authority from the same source. Neither can, in relation to the other, be called primary, though one is definite and restricted, and the other general and residuary. The National Government possesses those powers which it can be shown the people have conferred on it, and no more. All the rest belongs to the State Governments, or to the people themselves. So far as the people have restrained State sovereignty, by the expression of their will, in the Constitution of the United States, so far, it must be admitted, State sovereignty is effectually controlled. I do not contend that it is, or ought to be, controlled farther. The sentiment to which I have referred, propounds that State sovereignty is only to be controlled by its own "feeling of justice;" that is to say, that it is not to be controlled at all: for one who is to follow his own feelings is under no legal control. Now, however men may think this ought to be, the fact is, that the people of the United States have chosen to impose control on State sovereignties. There are those, doubtless, who wish they had been left without restraint; but the constitution has ordered the matter differently. To make war, for instance, is an exercise of sovereignty; but the constitution declares that no State shall make war. To coin money is another exercise of sovereign power; but no State is at liberty to coin money. Again, the constitution says that no sovereign State shall be so sovereign as to make a treaty. These prohibitions, it must be confessed, are a control on the State sovereignty of South Carolina, as well as of the other States, which does not arise "from her own feelings of honorable justice." Such an opinion, therefore, is in defiance of the plainest provisions of the constitution.

There are other proceedings of public bodies which have already been alluded to, and to

which I refer again, for the purpose of ascertaining more fully what is the length and breadth of that doctrine, denominated the Carolina doctrine, which the honorable gentleman has now stood up on this floor to maintain. In one of them I find it resolved, that "the tariff of 1828, and every other tariff designed to promote one branch of industry at the expense of others, is contrary to the meaning and intention of the Federal compact; and, as such, a dangerous, palpable, and deliberate usurpation of power, by a determined majority, wielding the General Government beyond the limits of its delegated powers, as calls upon the States which compose the suffering minority, in their sovereign capacity, to exercise the powers which, as sovereigns, necessarily devolve upon them, when their compact is violated."

Observe, sir, that this resolution holds the tariff of 1828, and every other tariff, designed to promote one branch of industry at the expense of another, to be such a dangerous, palpable, and deliberate usurpation of power, as calls upon the States, in their sovereign capacity, to interfere by their own authority. This denunciation, you will please to observe, includes our old tariff of 1816, as well as all others; because that was established to promote the interest of the manufacturers of cotton, to the manifest and admitted injury of the Calcutta cotton trade. Observe again, that all the qualifications are here rehearsed and charged upon the tariff, which are necessary to bring the case within the gentleman's proposition. The tariff is a usurpation; it is a dangerous usurpation; it is a palpable usurpation; it is a deliberate usurpation. It is such a usurpation, therefore, as calls upon the States to exercise their right of interference. Here is a case, then, within the gentleman's principles, and all his qualifications of his principles. It is a case for action. The constitution is plainly, dangerously, palpably, and deliberately violated; and the States must interpose their own authority to arrest the law. Let us suppose the State of South Carolina to express the same opinion, by the voice of her Legislature. That would be very imposing; but what then? Is the voice of one State conclusive? It so happens that, at the very moment when South Carolina resolves that the tariff laws are unconstitutional, Pennsylvania and Kentucky resolve exactly the reverse. They hold those laws to be both highly proper and strictly constitutional. And now, sir, how does the honorable member propose to deal with this case? How does he relieve us from this difficulty, upon any principle of his? His construction gets us into it; how does he propose to get us out?

In Carolina, the tariff is a palpable, deliberate usurpation; Carolina, therefore, may nullify it, and refuse to pay the duties. In Pennsylvania, it is both clearly constitutional, and highly expedient; and there, the duties are to be paid. And yet we live under a Government

of uniform laws, and under a constitution, too, which contains an express provision, as it happens, that all duties shall be equal in all the States! Does not this approach absurdity?

If there be no power to settle such questions, independent of either of the States, is not the whole Union a rope of sand? Are we not thrown back again, precisely upon the old Confederation?

It is too plain to be argued. Four and twenty interpreters of constitutional law, each with a power to decide for itself, and none with authority to bind anybody else, and this constitutional law the only bond of their union! What is such a state of things, but a mere connection during pleasure; or, to use the phraseology of the times, during feeling? And that feeling, too, not the feeling of the people, who established the constitution, but the feeling of the State Governments.

In another of the South Carolina addresses, having premised that the crisis requires "all the concentrated energy of passion," an attitude of open resistance to the laws of the Union is advised. Open resistance to the laws, then, is the constitutional remedy, the conservative power of the State, which the South Carolina doctrines teach, for the redress of political evils, real or imaginary. And its authors further say, that, appealing with confidence to the constitution itself, to justify their opinions, they cannot consent to try their accuracy by the courts of justice. In one sense, indeed, sir, said Mr. W., this is assuming an attitude of open resistance in favor of liberty. But what sort of liberty? The liberty of establishing their own opinions, in defiance of the opinions of all others; the liberty of judging and deciding exclusively themselves, in a matter in which others have as much right to judge and decide as they; the liberty of placing their own opinions above the judgment of all others, above the laws, and above the constitution. This is their liberty; and this is the fair result of the proposition contended for by the honorable gentleman. Or, it may be more properly said, it is identical with it, rather than a result from it.

In the same publication, we find the following: "Previously to our revolution, when the arm of oppression was stretched over New England, where did our Northern brethren meet with a braver sympathy than that which sprung from the bosoms of Carolinians? We had no extortion, no oppression, no collision with the king's ministers, no navigation interests springing up in envious rivalry of England."

This seems extraordinary language. South Carolina no collision with the king's ministers in 1775! No extortion! No oppression! But, sir, it is, also, most significant language. Does any man doubt the purpose for which it was penned? Can any one fail to see that it was designed to raise in the reader's mind the question, whether, at this time—that is to say, in

JANUARY, 1830.]

*Mr. Foote's Resolution—Nullification.*

[SENATE.]

1833, South Carolina has any collision with the king's ministers, any oppression, or extortion, to fear from England? Whether, in short, England is not as naturally the friend of South Carolina, as New England, with her navigation interests springing up in envious rivalry of England?

Is it not strange, sir, that an intelligent man in South Carolina, in 1828, should thus labor to prove, that, in 1775, there was no hostility, no cause of war between South Carolina and England? That she had no occasion, in reference to her own interest, or from a regard to her own welfare, to take up arms in the revolutionary contest? Can any one account for the expression of such strange sentiments, and their circulation through the State, otherwise than by supposing the object to be, what I have already intimated, to raise the question, if they had no "collision" (mark the expression) with the ministers of King George the Third, in 1775, what collision have they in 1828, with the ministers of King George the Fourth? What is there now, in the existing state of things, to separate Carolina from Old, more, or rather, than from New England?

Resolutions, sir, have been recently passed by the Legislature of South Carolina. I need not refer to them; they go no farther than the honorable gentleman himself has gone, and, I hope, not so far. I content myself, therefore, with debating the matter with him.

And now, sir, what I have first to say on this subject is, that at no time, and under no circumstances, has New England, or any State in New England, or any respectable body of persons in New England, or any public man of standing in New England, put forth such a doctrine as this Carolina doctrine.

The gentleman has found no case, he can find none, to support his own opinions by New England authority. New England has studied the constitution in other schools, and under other teachers. She looks upon it with other regards, and deems more highly and reverently, both of its just authority, and its utility and excellence. The history of her legislative proceedings may be traced; the ephemeral effusions of temporary bodies, called together by the excitement of the occasion, may be hunted up—they have been hunted up. The opinions and votes of her public men, in and out of Congress, may be explored; it will all be in vain. The Carolina doctrine can derive from her neither countenance nor support. She rejects it now; she always did reject it; and till she loses her senses, she always will reject it. The honorable member has referred to expressions on the subject of the embargo law, made in this place by an honorable and venerable gentleman, (Mr. Hillhouse,) now favoring us with his presence. He quotes that distinguished Senator as saying, that, in his judgment, the embargo law was unconstitutional, and that, therefore, in his opinion, the people were not bound to obey it. That, sir, is per-

fectly constitutional language. An unconstitutional law is not binding; but then it does not rest with a resolution, or a law of a State Legislature, to decide whether an act of Congress be, or be not, constitutional. An unconstitutional act of Congress would not bind the people of this District, although they have no Legislature to interfere in their behalf; and, on the other hand, a constitutional law of Congress does bind the citizens of every State, although all their Legislatures should undertake to annul it, by act or resolution. The venerable Connecticut Senator is a constitutional lawyer, of sound principles, and enlarged knowledge; a statesman, practised and experienced; bred in the company of Washington, and holding just views upon the nature of our Governments. He believed the embargo unconstitutional, and so did others; but what then? Who, did he suppose, was to decide that question? The State Legislatures? Certainly not. No such sentiment ever escaped his lips. Let us follow up, sir, this New England opposition to the embargo laws; let us trace it till we discern the principle which controlled and governed New England, throughout the whole course of that opposition. We shall then see what similarity there is between the New England school of constitutional opinions, and this modern Carolina school. The gentleman, I think, read a petition from some single individual, addressed to the Legislature of Massachusetts, asserting the Carolina doctrine—that is, the right of State interference to arrest the laws of the Union. The fate of that petition shows the sentiments of the Legislature. It met no favor. The opinions of Massachusetts were otherwise. They had been expressed in 1798, in answer to the resolutions of Virginia, and she did not depart from them, nor bend them to the times. Misgoverned, wronged, oppressed, as she felt herself to be, she still held fast her integrity to the Union. The gentleman may find in her proceedings much evidence of dissatisfaction with the measures of the Government, and great and deep dislike to the embargo; all this makes the case so much the stronger for her: for, notwithstanding all this dissatisfaction and dislike, she claimed no right, still, to sever asunder the bonds of the Union. There was heat, and there was anger, in her political feelings. Be it so; her heat or her anger did not, nevertheless, betray her into infidelity to the Government. The gentleman labors to prove that she disliked the embargo as much as South Carolina dislikes the tariff, and expressed her dislike as strongly. Be it so; but did she propose the Carolina remedy? Did she threaten to interfere, by State authority, to annul the laws of the Union? That is the question for the gentleman's consideration.

Let me here say, sir, that if the gentleman's doctrine had been received and acted upon in New England, in the times of the embargo and non-intercourse, we should probably not now

have been here. The Government would, very likely, have gone to pieces, and crumbled into dust. No stronger case can ever arise than existed under those laws; no States can ever entertain a clearer conviction than the New England States then entertained; and if they had been under the influence of that heresy of opinion, as I must call it, which the honorable member espouses, this Union would, in all probability, have been scattered to the four winds. I ask the gentleman, therefore, to apply his principles to that case; I ask him to come forth and declare, whether, in his opinion, the New England States would have been justified in interfering to break up the embargo system, under the conscientious opinions which they held upon it? Had they a right to annul that law? Does he admit or deny? If that which is thought palpably unconstitutional in South Carolina, justifies that State in arresting the progress of the law, tell me, whether that which was thought palpably unconstitutional also in Massachusetts, would have justified her in doing the same thing? Sir, I deny the whole doctrine. It has not a foot of ground in the constitution to stand on. No public man of reputation ever advanced it in Massachusetts, in the warmest times, or could maintain himself upon it there at any time.

I wish now, sir, to make a remark upon the Virginia resolutions of 1798. I cannot undertake to say how these resolutions were understood by those who passed them. Their language is not a little indefinite. In the case of the exercise, by Congress, of a dangerous power, not granted to them, the resolutions assert the right, on the part of the State, to interfere, and arrest the progress of the evil. This is susceptible of more than one interpretation. It may mean no more than that the States may interfere by complaint and remonstrance; or by proposing to the people an alteration of the Federal constitution. This would all be quite unobjectionable; or, it may be, that no more is meant than to assert the general right of revolution, as against all Governments, in cases of intolerable oppression. This no one doubts; and this, in my opinion, is all that he who framed the resolutions could have meant by it: for I shall not readily believe that he was ever of opinion that a State, under the constitution, and in conformity with it, could, upon the ground of her own opinion of its unconstitutionality, however clear and palpable she might think the case, annul a law of Congress, so far as it should operate on herself, by her own legislative power.

I must now beg to ask, sir, whence is this supposed right of the States derived? Where do they find the power to interfere with the laws of the Union? Sir, the opinion which the honorable gentleman maintains, is a notion founded on a total misapprehension, in my judgment, of the origin of this Government, and of the foundation on which it stands. I hold it to be a popular Government, erected by

the people; those who administer it, responsible to the people; and itself capable of being amended and modified, just as the people may choose it should be. It is as popular, just as truly emanating from the people, as the State Governments. It is created for one purpose; the State Governments for another. It has its own powers; they have theirs. There is no more authority with them to arrest the operation of a law of Congress, than with Congress to arrest the operation of their laws. We are here to administer a constitution emanating immediately from the people, and trusted, by them, to our administration. It is not the creature of the State Governments. It is of no moment to the argument, that certain acts of the State Legislatures are necessary to fill our seats in this body. That is not one of their original State powers—a part of the sovereignty of the State. It is a duty which the people, by the constitution itself, have imposed on the State Legislatures; and which they might have left to be performed elsewhere if they had seen fit. So they have left the choice of President with electors; but all this does not affect the proposition that this whole Government—President, Senate, and House of Representatives—is a popular Government. It leaves it still all its popular character. The Governor of a State (in some of the States) is chosen, not directly by the people, but by those who are chosen by the people, for the purpose of performing, among other duties, that of electing a Governor. Is the Government of a State, on that account, not a popular Government? This Government, sir, is the independent offspring of the popular will. It is not the creature of State Legislatures. Nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it, for the very purpose, amongst others, of imposing certain salutary restraints on State sovereignties. The States cannot now make war; they cannot contract alliances; they cannot make, each for itself, separate regulations of commerce; they cannot lay imposts; they cannot coin money. If this constitution, sir, be the creature of State Legislatures, it must be admitted that it has obtained a strange control over the volitions of its creators.

The people, then, sir, erected this Government. They gave it a constitution; and in that constitution they have enumerated the powers which they bestow on it. They have made it a limited Government. They have defined its authority. They have restrained it to the exercise of such powers as are granted; and all others, they declare, are reserved to the States or to the people. But, sir, they have not stopped here. If they had, they would have accomplished but half their work. No definition can be so clear as to avoid possibility of doubt; no limitation so precise, as to exclude all uncertainty. Who then shall construe this grant of the people? Who shall interpret

JANUARY, 1830.]

*Mr. Foote's Resolution—Nullification.*

[SENATE.]

their will, where it may be supposed they have left it doubtful? With whom do they repose this ultimate right of deciding on the powers of the Government? Sir, they have settled all this in the fullest manner. They have left it with the Government itself, in its appropriate branches. Sir, the very chief end, the main design, for which the whole constitution was framed and adopted, was, to establish a Government that should not be obliged to act through State agency, or depend on State opinion and State discretion. The people had had quite enough of that kind of Government, under the Confederacy. Under that system, the legal action, the application of law to individuals, belonged exclusively to the States. Congress could only recommend; their acts were not of binding force, till the States had adopted and sanctioned them. Are we in that condition still? Are we yet at the mercy of State discretion, and State construction? Sir, if we are, then vain will be our attempt to maintain the constitution under which we sit. But, sir, the people have wisely provided, in the constitution itself, a proper, suitable mode and tribunal for settling questions of constitutional law. There are, in the constitution, grants of powers to Congress, and restrictions on these powers. There are, also, prohibitions on the States. Some authority must, therefore, necessarily exist, having the ultimate jurisdiction to fix and ascertain the interpretation of these grants, restrictions, and prohibitions. The constitution has, itself, pointed out, ordained, and established, that authority. How has it accomplished this great and essential end? By declaring, sir, that "the constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, any thing in the constitution or laws of any State to the contrary notwithstanding."

This, sir, was the first great step. By this, the supremacy of the constitution and laws of the United States is declared. The people so will it. No State law is to be valid which comes in conflict with the constitution or any law of the United States. But who shall decide this question of interference? To whom lies the last appeal? This, sir, the constitution itself decides also, by declaring "that the judicial power shall extend to all cases arising under the constitution and laws of the United States." These two provisions, sir, cover the whole ground. They are, in truth, the keystone of the arch. With these, it is a constitution; without them, it is a confederacy. In pursuance of these clear and express provisions, Congress established, at its very first session, in the Judicial Act, a mode for carrying them into full effect, and for bringing all questions of constitutional power to the final decision of the Supreme Court. It then, sir, became a Government. It then had the means of self-protection; and, but for this, it would, in all probability, have been now among things which are past. Having constituted the Gov-

ernment, and declared its powers, the people have farther said, that, since somebody must decide on the extent of these powers, the Government shall itself decide; subject, always, like other popular Governments, to its responsibility to the people. And now, sir, I repeat, how is it that a State Legislature acquires any power to interfere? Who or what gives them the right to say to the people, "We, who are your agents and servants for one purpose, will undertake to decide that your other agents and servants, appointed by you for another purpose, have transcended the authority you gave them?" The reply would be, I think, not impertinent: "Who made you a judge over another's servants? To their own masters they stand or fall."

Sir, I deny this power of State Legislatures altogether. It cannot stand the test of examination. Gentlemen may say that, in an extreme case, a State Government might protect the people from intolerable oppression. Sir, in such a case, the people might protect themselves, without the aid of the State Governments. Such a case warrants revolution. It must make, when it comes, a law for itself. A nullifying act of a State Legislature cannot alter the case, nor make resistance any more lawful. In maintaining these sentiments, sir, I am but asserting the rights of the people. I state what they have declared, and insist on their right to declare it. They have chosen to repose this power in the General Government, and I think it my duty to support it, like other constitutional powers.

For myself, sir, I do not admit the jurisdiction of South Carolina, or any other State, to prescribe my constitutional duty, or to settle, between me and the people, the validity of laws of Congress, for which I have voted. I decline her umpirage. I have not sworn to support the constitution according to her construction of its clauses. I have not stipulated, by my oath of office, or otherwise, to come under any responsibility, except to the people, and those whom they have appointed to pass upon the question, whether laws, supported by my votes, conform to the constitution of the country. And, sir, if we look to the general nature of the case, could any thing have been more preposterous than to make a Government for the whole Union, and yet leave its powers subject, not to one interpretation, but to thirteen, or twenty-four, interpretations? Instead of one tribunal, established by all, responsible to all, with power to decide for all, shall constitutional questions be left to four and twenty popular bodies, each at liberty to decide for itself, and none bound to respect the decisions of others; and each at liberty, too, to give a new construction on every new election of its own members? Would any thing with such a principle in it, or rather with such a destitution of all principle, be fit to be called a Government? No, sir. It should not be denominated a constitution. It should be called, rather, a



collection of topics, for everlasting controversy; heads of debate for a disputatious people. It would not be a Government. It would not be adequate to any practical good, nor fit for any country to live under. To avoid all possibility of being misunderstood, allow me to repeat again, in the fullest manner, that I claim no powers for the Government, by forced or unfair construction. I admit that it is a Government of strictly limited powers, of enumerated, specified, and particularized powers; and that whatsoever is not granted, is withheld. But notwithstanding all this, and however the grant of powers may be expressed, its limit and extent may yet, in some cases, admit of doubt; and the General Government would be good for nothing, it would be incapable of long existing, if some mode had not been provided, in which these doubts, as they should arise, might be peaceably, but authoritatively, solved.

And now let me run the honorable gentleman's doctrine a little into its practical application. Let us look at his probable *modus operandi*. If a thing can be done, an ingenious man can tell how it is to be done. Now, I wish to be informed how this State interference is to be put in practice without violence, bloodshed, and rebellion. We will take the existing case of the tariff law. South Carolina is said to have made up her opinion upon it. If we do not repeal it, (as we probably shall not,) she will then apply to the case the remedy of her doctrine. She will, we must suppose, pass a law of her Legislature, declaring the several acts of Congress, usually called the tariff laws, null and void, so far as they respect South Carolina, or the citizens thereof. So far, all is a paper transaction, and easy enough. But the collector at Charleston is collecting the duties imposed by these tariff laws; he, therefore, must be stopped. The collector will seize the goods if the tariff duties are not paid. The State authorities will undertake their rescue: the marshal, with his *posse*, will come to the collector's aid, and here the contest begins. The militia of the State will be called out to sustain the nullifying act. They will march, sir, under a very gallant leader: for I believe the honorable member himself commands the militia of that part of the State. He will raise the nullifying act on his standard, and spread it out as his banner! It will have a preamble, bearing, that the tariff laws are palpable, deliberate, and dangerous violations of the constitution! He will proceed, with this banner flying, to the custom-house in Charleston:

"All the while,  
"Sonorous metal blowing martial sounds."

Arrived at the custom-house, he will tell the collector that he must collect no more duties under any of the tariff laws. This he will be somewhat puzzled to say, by the way, with a grave countenance, considering what hand South Carolina herself had in that of 1816. But, sir, the collector would, probably, not de-

sist at his bidding. Here would ensue a pause: for they say that a certain stillness precedes the tempest. Before this military array should fall on the custom-house, collector, clerks, and all, it is very probable some of those composing it would request, of their gallant commander-in-chief, to be informed a little upon the point of law: for they have, doubtless, a just respect for his opinions as a lawyer, as well as for his bravery as a soldier. They know he has read Blackstone and the constitution, as well as Turenne and Vauban. They would ask him, therefore, something concerning their rights in this matter. They would inquire whether it was not somewhat dangerous to resist a law of the United States. What would be the nature of their offence, they would wish to learn, if they, by military force and array, resisted the execution, in Carolina, of a law of the United States, and it should turn out, after all, that the law was constitutional? He would answer, of course, treason. No lawyer could give any other answer. John Fries, he would tell them, had learned that some years ago. How, then, they would ask, do you propose to defend us? We are not afraid of bullets; but treason has a way of taking people off, that we do not much relish. How do you propose to defend us? "Look at my floating banner," he would reply; "see there the nullifying law!" Is it your opinion, gallant commander, they would then say, that, if we should be indicted for treason, that same floating banner of yours would make a good plea in bar? "South Carolina is a sovereign State," he would reply. That is true; but would the judge admit our plea? "These tariff laws," he would repeat, "are unconstitutional, palpably, deliberately, dangerously." That all may be so; but if the tribunals should not happen to be of that opinion, shall we swing for it? We are ready to die for our country, but it is rather an awkward business, this dying without touching the ground! After all, that is a sort of hemp tax, worse than any part of the tariff. The honorable gentleman would be in a dilemma like that of another great general: he would have a knot before him which he could not untie. He must cut it with his sword: he must say to his followers, Defend yourselves with your bayonets!—and this is war—civil war.

Direct collision, therefore, between force and force, is the unavoidable result of that remedy for the revision of unconstitutional laws which the gentleman contends for. It must happen in the very first case to which it is applied. Is not this the plain result? To resist, by force, the execution of a law, generally, is treason. Can the courts of the United States take notice of the indulgence of a State to commit treason? The common saying, that a State cannot commit treason herself, is nothing to the purpose. Can she authorize others to do it? If John Fries had produced an act of Pennsylvania, annulling the law of Congress, would it have helped his case? Talk about it as we

JANUARY, 1890.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

will, these doctrines go the length of revolution. They are incompatible with any peaceable administration of the Government. They lead directly to disunion and civil commotion; and therefore it is, that, at their commencement, when they are first found to be maintained by respectable men, and in a tangible form, I enter my public protest against them all.

The honorable gentleman argues that, if this Government be the sole judge of the extent of its own powers, whether that right of judging be in Congress or the Supreme Court, it equally subverts State sovereignty. This the gentleman sees, or thinks he sees, although he cannot perceive how the right of judging, in this matter, if left to the exercise of State Legislatures, has any tendency to subvert the Government of the Union. The gentleman's opinion may be, that the right ought not to have been lodged with the General Government; he may like better such a constitution as we should have under the right of State interference; but I ask him to meet me on the plain matter of fact; I ask him to meet me on the constitution itself; I ask him if the power is not found there, clearly and visibly found there?

But, sir, what is this danger, and what the grounds of it? Let it be remembered that the Constitution of the United States is not unalterable. It is to continue in its present form no longer than the people, who established it, shall choose to continue it. If they shall become convinced that they have made an injudicious or inexpedient partition and distribution of power, between the State Governments and the General Government, they can alter that distribution at will.

If any thing be found in the national constitution, either by original provision, or subsequent interpretation, which ought not to be in it, the people know how to get rid of it. If any construction be established, unacceptable to them, so as to become, practically, a part of the constitution, they will amend it at their own sovereign pleasure. But while the people choose to maintain it as it is; while they are satisfied with it, and refuse to change it, who has given, or who can give, to the State Legislatures, a right to alter it, either by interference, construction, or otherwise? Gentlemen do not seem to recollect that the people have any power to do any thing for themselves; they imagine there is no safety for them any longer than they are under the close guardianship of the State Legislatures. Sir, the people have not trusted their safety, in regard to the general constitution, to those hands. They have required other security, and taken other bonds. They have chosen to trust themselves, first, to the plain words of the instrument, and to such construction as the Government itself, in doubtful cases, should put on its own powers, under their oaths of office, and subject to their responsibility to them; just as the people of a State trust their own State Governments

with a similar power. Secondly, they have reposed their trust in the efficacy of frequent elections, and in their own power to remove their own servants and agents, whenever they see cause. Thirdly, they have reposed their trust in the Judicial power, which, in order that it might be trustworthy, they have made as respectable, as disinterested, and as independent as was practicable. Fourthly, they have seen fit to rely, in case of necessity, or high expediency, on their known and admitted power to alter or amend the constitution, peaceably and quietly, whenever experience shall point out defects or imperfections. And finally, the people of the United States have, at no time, in no way, directly or indirectly, authorized any State Legislature to construe or interpret their high instrument of Government; much less to interfere, by their own power, to arrest its course and operation.

If, sir, the people, in these respects, had done otherwise than they have done, their constitution could neither have been preserved, nor would it have been worth preserving. And, if its plain provisions shall now be disregarded, and these new doctrines interpolated in it, it will become as feeble and helpless a being as its enemies, whether early or more recent, could possibly desire. It will exist, in every State, but as a poor dependent on State permission. It must borrow leave to be; and will be no longer than State pleasure, or State discretion, sees fit to grant the indulgence, and to prolong its poor existence.

But, sir, although there are fears, there are hopes, also. The people have preserved this, their own chosen constitution, for forty years, and have seen their happiness, prosperity, and renown, grow with its growth, and strengthen with its strength. They are now, generally, strongly attached to it. Overthrown by direct assault, it cannot be; evaded, undermined, nullified, it will not be, if we, and those who shall succeed us here, as agents and representatives of the people, shall conscientiously and vigilantly discharge the two great branches of our public trust, faithfully to preserve, and wisely to administer it.

I have thus stated the reasons of my dissent to the doctrines which have been advanced and maintained. I am conscious, sir, of having detained you and the Senate much too long. I was drawn into the debate with no previous deliberation, such as is suited to the discussion of so grave and important a subject. But it is a subject of which my heart is full, and I have not been willing to suppress the utterance of its spontaneous sentiments. I cannot, even now, persuade myself to relinquish it, without expressing, once more, my deep conviction, that, since it respects nothing less than the union of the States, it is of most vital and essential importance to the public happiness. I profess, sir, in my career, hitherto, to have kept steadily in view the prosperity and honor of the whole country, and the preservation of

our Federal Union. It is to that Union we owe our safety at home, and our consideration and dignity abroad. It is to that Union that we are chiefly indebted for whatever makes us most proud of our country. That Union we reached only by the discipline of our virtues in the severe school of adversity. It had its origin in the necessities of disordered finance, prostrate commerce, and ruined credit. Under its benign influence, these great interests immediately awoke, as from the dead, and sprang forth with newness of life. Every year of its duration has teemed with fresh proofs of its utility and its blessings; and, although our territory has stretched out wider and wider, and our population spread farther and farther, they have not outrun its protection or its benefits. It has been to us all a copious fountain of national, social, and personal happiness. I have not allowed myself, sir, to look beyond the Union, to see what might lie hidden in the dark recess behind. I have not coolly weighed the chances of preserving liberty, when the bonds that unite us together shall be broken asunder. I have not accustomed myself to hang over the precipice of disunion, to see whether, with my short sight, I can fathom the depth of the abyss below; nor could I regard him as a safe counsellor, in the affairs of this Government, whose thoughts should be mainly bent on considering, not how the Union should be best preserved, but how tolerable might be the condition of the people, when it shall be broken up and destroyed. While the Union lasts, we have high, exciting, gratifying prospects spread out before us, for us and our children. Beyond that, I seek not to penetrate the veil. God grant that, in my day, at least, that curtain may not rise. God grant that, on my vision, never may be opened what lies behind. When my eyes shall be turned to behold, for the last time, the sun in heaven, may I not see him shining on the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land rent with civil feuds, or drenched, it may be, in fraternal blood! Let their last feeble and lingering glance, rather, behold the gorgeous ensign of the republic, now known and honored throughout the earth, still full high advanced, its arms and trophies streaming in their original lustre, not a stripe erased or polluted, nor a single star obscured, bearing for its motto no such miserable interrogatory as, What is all this worth? Nor those other words of delusion and folly, Liberty first, and Union afterwards: but everywhere, spread all over in characters of living light, blazing on all its ample folds, as they float over the sea and over the land, and in every wind under the whole heavens, that other sentiment, dear to every true American heart—Liberty and Union, now and forever, one and inseparable!

Mr. HAYNE said: The gentleman (Mr. WEBSTER) complains of his arguments having been misunderstood in relation to consolidation. He

thinks my misapprehension almost miraculous in treating his as an argument in favor of the "consolidation of the Government." Now, sir, what was the point in dispute between us? I had deprecated the consolidation of the Government. I said not one word against the "consolidation of the Union." I went further, and pointed out, and deprecated some of the means, by which this consolidation was to be brought about. The gentleman gets up and attacks my argument at every point, ridicules our fears about "consolidation," and finally reads a passage from a letter of General Washington's, stating that one of the objects of the constitution was "the consolidation of the Union." Surely, sir, under these circumstances, I was not mistaken in saying, that the authority quoted did not apply to the case, as the point in dispute was the "consolidation of the Government," and not of the "Union." But, sir, the gentleman has relieved me from all embarrassment on this point, by going fully into the examination of the Virginia doctrines of '98; and while he denounces them, giving us his own views of the power of the Federal Government; views which, in my humble judgment, stop nothing short of the consolidation of all power in the hands of the Federal Government. Sir, when I last touched on this topic, I did little more than quote the high authorities on which our doctrines rest; but, after the elaborate argument which we have just heard from the gentleman from Massachusetts, it cannot be supposed that I can suffer them to go to the world unanswered. I entreat the Senate, therefore, to bear with me, while I go over, as briefly as possible, the most prominent arguments of the gentleman.

The proposition which I laid down, and from which the gentleman dissents, is taken from the Virginia resolutions of '98, and is in these words: "that in case of a deliberate, palpable, and dangerous exercise by the Federal Government of powers not granted by the compact, (the constitution,) the States who are parties thereto have a right to interpose, for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them." The gentleman insists that the States have no right to decide whether the constitution has been violated by acts of Congress or not, but that the Federal Government is the exclusive judge of the extent of its own powers; and that, in case of a violation of the constitution, however "deliberate, palpable, and dangerous," a State has no constitutional redress, except where the matter can be brought before the Supreme Court, whose decision must be final and conclusive on the subject. Having thus distinctly stated the points in dispute between the gentleman and myself, I proceed to examine them. And here it will be necessary to go back to the origin of the Federal Government. It cannot be doubted, and is not denied, that, before the formation of the

JANUARY, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

constitution, each State was an independent sovereignty, possessing all the rights and powers appertaining to independent nations; nor can it be denied that, after the constitution was formed, they remained equally sovereign and independent, as to all powers not expressly delegated to the Federal Government. This would have been the case, even if no positive provision to that effect had been inserted in that instrument. But to remove all doubt, it is expressly declared, by the tenth article of the amendments of the constitution, that "the powers not delegated to the United States, by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." The true nature of the Federal constitution, therefore, is, (in the language of Mr. Madison,) "a compact to which the States are parties"—a compact by which each State, acting in its sovereign capacity, has entered into an agreement with the other States, by which they have consented that certain designated powers shall be exercised by the United States, in the manner prescribed in the instrument. Nothing can be clearer, than that, under such a system, the Federal Government, exercising strictly delegated powers, can have no right to act beyond the pale of its authority, and that all such acts are void. A State, on the contrary, retaining all powers not expressly given away, may lawfully act in all cases where she has not voluntarily imposed restrictions on herself. Here, then, is a case of a compact between sovereigns; and the question arises: What is the remedy for a clear violation of its express terms by one of the parties? And here the plain obvious dictate of common sense is in strict conformity with the understanding of mankind, and the practice of nations in all analogous cases; "that, where resort can be had to no common superior, the parties to the compact must, themselves, be the rightful judges whether the bargain has been pursued or violated." (Madison's Report, p. 20.) When it is insisted by the gentleman that one of the parties (the Federal Government) "has the power of deciding ultimately and conclusively upon the extent of its own authority," I ask for the grant of such a power. I call upon the gentleman to show it to me in the constitution. It is not to be found there. If it is to be inferred from the nature of the compact, I aver that not a single argument can be urged in support of such an inference, in favor of the Federal Government, which would not apply, with at least equal force, in favor of a State. All sovereigns are of necessity equal; and any one State, however small in population or territory, has the same rights as the rest, just as the most insignificant nation in Europe is as much sovereign as France, or Russia, or England.

The very idea of a division of power by compact, is destroyed by a right claimed and exercised by either to be the exclusive interpreter of the instrument. Power is not divided, where one of the parties can arbitrarily

determine its limits. A compact between two, with a right reserved to one to expound the instrument according to his own pleasure, is no compact at all, but an absolute surrender of the whole subject matter to the arbitrary discretion of the party who is constituted the judge. This is so obvious, that, in the conduct of human affairs between man and man, a common superior is always looked to as the expounder of contracts. But if there be no common superior, it results, from the very nature of things, that the parties must be their own judges. This is admitted to be the case where treaties are formed between independent nations; and, if the same rule does not apply to the federal compact, it must be because the Federal is superior to the State Government, or because the States have surrendered their sovereignty. Neither branch of this proposition can be maintained for a moment. I have already shown that all sovereigns must, as such, be equal. It only remains therefore to inquire whether the States have surrendered their sovereignty, and consented to reduce themselves to mere corporations. The whole form and structure of the Federal Government, the opinions of the framers of the constitution, and the organization of the State Governments, demonstrate that, though the States have surrendered certain specific powers, they have not surrendered their sovereignty. They have each an independent Legislature, Executive, and Judiciary, and exercise jurisdiction over the lives and property of their citizens. They have, it is true, voluntarily restrained themselves from doing certain acts, but, in all other respects, they are as omnipotent as any independent nation whatever. Here, however, we are met by the argument, that the constitution was not formed by the States in their sovereign capacity, but by the people; and it is therefore inferred that, the Federal Government being created by all the people, must be supreme; and though it is not contended that the constitution may be rightfully violated, yet it is insisted that from the decision of the Federal Government there can be no appeal. It is obvious that this argument rests on the idea of State inferiority. Considering the Federal Government as one whole, and the States merely as component parts, it follows, of course, that the former is as much superior to the latter as the whole is to the parts of which it is composed. Instead of deriving power by delegation from the States to the Union, this scheme seems to imply that the individual States derive their power from the United States, just as petty corporations may exercise so much power, and no more, as their superior may permit them to enjoy. This notion is entirely at variance with all our conceptions of State rights, as those rights were understood by Mr. Madison and others, at the time the constitution was framed. I deny that the constitution was framed by the people in the sense in which that word is used on the other side, and insist that it was framed by the

States acting in their sovereign capacity. When, in the preamble of the constitution, we find the words, "we the people of the United States," it is clear they can only relate to the people as citizens of the several States, because the Federal Government was not then in existence.

We accordingly find, in every part of that instrument, that the people are always spoken of in that sense. Thus, in the second section of the first article it is declared, that "the House of Representatives shall be composed of members chosen every second year, by the people of the several States." To show that, in entering into this compact, the States acted in their sovereign capacity, and not merely as parts of one great community, what can be more conclusive than the historical fact that, when every State had consented to it except one, she was not held to be bound? A majority of the people in any State bound that State, but nine-tenths of all the people of the United States could not bind the people of Rhode Island, until Rhode Island, as a State, had consented to the compact. It cannot be denied that, at the time the constitution was framed, the people of the United States were members of regularly organized Governments, citizens of independent States; and unless these State Governments had been dissolved, it was impossible that the people could have entered into any compact but as citizens of these States. Suppose an assent to the constitution had been given by all the people within a certain district of any State, but that the State, in its sovereign capacity, had refused its assent: would the people of that district have become citizens of the United States? Surely not. It is clear, then, that in adopting the constitution, the people did not act, and could not have acted, in any other character than as citizens of their respective States. And if, on the adoption of the constitution, they became citizens of the United States, it was only by virtue of that clause in the constitution which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." In choosing members to the convention, the States acted through their Legislatures, by whose authority the constitution, when framed, was submitted for ratification to conventions of the people, the usual and most appropriate organ of the sovereign will. I am not disposed to dwell longer on this point, which does appear to my mind to be too clear to admit of controversy. But I will quote from Mr. Madison's report, which goes the whole length in support of the doctrines for which I have contended:

"The other position involved in this branch of the resolution, namely: 'that the States are parties to the constitution, or compact,' is, in the judgment of the committee, equally free from objection. It is indeed true, that the term 'States' is sometimes used in a vague sense, and sometimes in different senses, according to the subject to which it is applied. Thus, it sometimes means the separate sec-

tions of territory occupied by the political societies within each; sometimes the particular governments established by those societies; sometimes those societies as organized into those particular governments; and, lastly, it means the people composing those political societies, in their highest sovereign capacity. Although it might be wished that the perfection of language admitted of less diversity in the signification of the same words, yet little inconvenience is produced by it where the true sense can be collected with certainty from the different applications. In the present instance, whatever different constructions of the term 'States,' in the resolution, may have been entertained, all will at least concur in that last mentioned; because, in that sense the constitution was submitted to the 'States;' in that sense the 'States' ratified it; and in that sense of the term 'States,' they are consequently parties to the compact, from which the powers of the Federal Government result."

Having now established the position that the constitution was a compact between sovereign and independent States, having no common superior, "it follows, of necessity," (to borrow the language of Mr. Madison,) "that there can be no tribunal above their authority to decide, in the last resort, whether the compact made by them be violated, and consequently, that, as the parties to it, they must themselves decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition."

But, the gentleman insists that the tribunal provided by the constitution for the decision of controversies between the States and the Federal Government, is the Supreme Court. And here again I call for the authority on which the gentleman rests the assertion, that the Supreme Court has any jurisdiction whatever over questions of sovereignty between the States and the United States. When we look into the constitution we do not find it there. I put entirely out of view any act of Congress on the subject. We are not looking into the laws, but the constitution.

It is clear that questions of sovereignty are not the proper subjects of judicial investigation. They are much too large, and of too delicate a nature, to be brought within the jurisdiction of a court of justice. Courts, whether supreme or subordinate, are the mere creatures of the sovereign power designed to expound and carry into effect its sovereign will. No independent State ever yet submitted to a Judge on the bench, the true construction of the compact between himself and another sovereign. All courts may incidentally take cognizance of treaties, where rights are claimed under them; but who ever heard of a court making an inquiry into the authority of the agents of the high contracting parties to make the treaty—whether its terms had been fulfilled, or whether it had become void, on account of a breach of its conditions on either side? All these are political, and not judicial questions. Some reliance has been placed on those provisions of the constitution which con-

JANUARY, 1890.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

stitute "one Supreme Court;" which provide that "the judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and treaties;" and which declare that "this constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties, &c., shall be the supreme law of the land," &c. Now, as to the name of the Supreme Court, it is clear that the term has relation only to its supremacy over the inferior courts provided for by the constitution, and has no reference whatever to any supremacy over the sovereign States. The words are, "The judicial power of the United States shall be vested in one Supreme Court, and such inferior courts as the Congress may, from time to time, ordain and establish," &c. Though jurisdiction is given "in cases arising under the constitution," yet it is expressly limited to "cases in law and equity," showing conclusively that this jurisdiction was incidental merely to the ordinary administration of justice, and not intended to touch high questions of conflicting sovereignty. When it is declared that the constitution, and the laws of the United States made in pursuance thereof, shall be the supreme law of the land, it is manifest that no indication is given either as to the power of the Supreme Court to bind the States by its decision, nor as to the course to be pursued in the event of laws being passed not in pursuance of the constitution. And I beg leave to call gentlemen's attention to the striking fact, that the powers of the Supreme Court, in relation to questions arising under the laws and the constitution, are co-extensive with those arising under treaties. In all of these cases the power is limited to questions arising "in law and equity," that is to say, to cases where jurisdiction is incidentally acquired in the ordinary administration of justice. But, as with regard to treaties, the Supreme Court has never assumed jurisdiction over questions arising between the sovereigns who are parties to it, so under the constitution they cannot assume jurisdiction over questions arising between the individual States and the United States.

If they should do so, they would be acting entirely out of their sphere. Umpires are indeed sometimes appointed by special agreement, but, in the case before us, there can be no pretence that the Supreme Court have been specially constituted umpires. But, if the Judiciary are, from their character and the peculiar scope of their duties, unfit for the high office of deciding questions of sovereignty, much more strongly is the Supreme Court disqualified from assuming the umpirage between the States and the United States; because it is created by, and is indeed merely one of the departments of, the Federal Government. The United States have a Supreme Court; each State has also its Supreme Court. Both of them, in the ordinary administration of justice, must of necessity decide on the constitutionality of laws; but when it becomes a question of sov-

ereignty between these two independent Governments, the subject matter is equally removed from the jurisdiction of both. If the Supreme Court of the United States can take cognizance of such a question, so can the Supreme Courts of the States. But, sir, can it be supposed for a moment, that, when the States proceeded to enter into the compact, called the Constitution of the United States, they could have designed, nay, that they could, under any circumstances, have consented to leave to a court to be created by the Federal Government, the power to decide, finally, on the extent of the powers of the latter, and the limitations on the powers of the former? If it had been designed to do so, it would have been so declared, and assuredly some provision would have been made to secure, as umpires, a tribunal somewhat differently constituted from that whose appropriate duty is the ordinary administration of justice. But to prove, as I think conclusively, that the Judiciary were not designed to act as umpires, it is only necessary to observe that, in a great majority of cases, that court could manifestly not take jurisdiction of the matters in dispute. Whenever it may be designed by the Federal Government to commit a violation of the constitution, it can be done, and always will be done, in such a manner as to deprive the court of all jurisdiction over the subject. Take the case of the tariff and internal improvements; whether constitutional or unconstitutional, it is admitted that the Supreme Court have no jurisdiction. Suppose Congress should, for the acknowledged purpose of making an equal distribution of the property of the country, among States or individuals, proceed to lay taxes to the amount of fifty millions of dollars a year. Could the Supreme Court take cognizance of the act laying the tax, or making the distributions? Certainly not. Take another case, which is very likely to occur. Congress have the unlimited power of taxation. Suppose them also to assume an unlimited power of appropriation. Appropriations of money are made to establish presses, promote education, build and support churches, create an order of nobility, or any other unconstitutional object; it is manifest that, in none of these cases, could the constitutionality of the laws making those grants be tested before the Supreme Court. It would be in vain that a State should come before the judges with an act appropriating money to any of these objects, and ask of the court to decide whether these grants were constitutional. They could not even be heard; the court would say, they had nothing to do with it; and they would say rightly. It is idle, therefore, to talk of the Supreme Court affording any security to the States, in cases where their rights may be violated by the exercise of unconstitutional powers, on the part of the Federal Government. On this subject Mr. Madison, in his report, says: "But it is objected, that the judicial authority is to be

regarded as the sole expositor of the constitution in the last resort; and it may be asked, for what reason the declaration by the General Assembly, supposing it to be theoretically true, could be required at the present day, and in so solemn a manner? On this objection it might be observed, first, that there may be instances of usurped power, which the forms of the constitution would never draw within the control of the Judicial Department: Secondly, that, if the decision of the Judiciary be raised above the authority of the sovereign parties to the constitution, the decisions of the other departments, not carried by the forms of the constitution before the Judiciary, must be equally authoritative and final with the decisions of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases in which all the forms of the constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers, not delegated, may not only be usurped and executed by the other departments, but that the Judicial Department also may exercise or sanction dangerous powers beyond the grant of the constitution, and consequently, that the ultimate right of the parties to the constitution to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority, as well as by another—by the Judiciary as well as by the Executive or Legislative.

"However true, therefore, it may be, that the Judicial Department is, in all questions submitted to it by the forms of the constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the Government; not in relation to the rights of the parties to the constitutional compact, from which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis the delegation of judicial power would annul the authority delegating it; and the concurrence of this department with the others in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very constitution which all were instituted to preserve."

If, then, the Supreme Court are not, and, from their organization, cannot, be the umpires in questions of conflicting sovereignty, the next point to be considered is, whether Congress themselves possess the right of deciding conclusively on the extent of their own powers. This I know is a popular notion, and it is founded on the idea that, as all the States are represented here, nothing can prevail which is not in conformity with the will of the majority; and it is supposed to be a republican maxim "that the majority must govern." Now, sir, I admit that much care has been taken to secure the States and the people from rash and unadvised legislation. The organiza-

tion of two houses, the one the Representatives of the States, and the other of the people, manifest an anxiety to secure equality and justice in the operation of the federal system. But all this has done no more than to secure us against any laws but such as should be assented to by a majority of the Representatives in the two Houses of Congress.

Now will any one contend that it is the true spirit of this Government that the will of a majority of Congress should, in all cases, be the supreme law? If no security was intended to be provided for the rights of the States, and the liberty of the citizen, beyond the mere organization of the Federal Government, we should have had no written constitution, but Congress would have been authorized to legislate for us, in all cases whatever; and the acts of our State Legislatures, like those of the present legislative councils in the Territories, would have been subjected to the revision and control of Congress. If the will of a majority of Congress is to be the supreme law of the land, it is clear the constitution is a dead letter, and has utterly failed of the very object for which it was designed—the protection of the rights of the minority. But when, by the very terms of the compact, strict limitations are imposed on every branch of the Federal Government, and it is, moreover, expressly declared that all powers, not granted to them, "are reserved to the States or to the people," with what show of reason can it be contended that the Federal Government is to be the exclusive judge of the extent of its own powers? A written constitution was resorted to in this country, as a great experiment, for the purpose of ascertaining how far the rights of a minority could be secured against the encroachments of majorities—often acting under party excitement and not unfrequently under the influence of strong interests. The moment that constitution was formed, the will of a majority ceased to be the law except in cases that should be acknowledged by the parties to it to be within the constitution, and to have been thereby submitted to their will. But when Congress (exercising a delegated and strictly limited authority) pass beyond these limits, their acts become null and void, and must be declared to be so by the courts in cases within their jurisdiction; and may be pronounced to be so by the States themselves, in cases not within the jurisdiction of the courts, or of sufficient importance to justify such an interference. I will put the case strongly. Suppose, in the language of Mr. Jefferson, the Federal Government, in its three ruling branches, should (at some future day) be found "to be in combination to strip their colleagues, the State authorities, of the powers reserved by them, and to exercise themselves all powers, foreign and domestic," would there be no constitutional remedy against such a usurpation? If so, then Congress is supreme and your constitution is not worth the parchment on which it is written. What the gentle-



JANUARY, 1890.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

man calls the right of revolution would exist, and could be exerted as well, without a constitution as with it.

It is in vain to tell us that all the States are represented here. Representation may, or may not, afford security to the people. The only practical security against oppression, in representative Governments, is to be found in this, that those who impose the burthens are compelled to share them. Where there are conflicting interests, however, and a majority are enabled to impose burthens on the minority, for their own advantage, it is obvious that representation, on the part of that minority, can have no other effect, than to "furnish an apology for the injustice." What security would a representation of the American colonies in the British Parliament have afforded to our ancestors? What would be the value of a West India representation there now? Of what value is our representation here, on questions connected with the "American System," where (to use the strong language of a distinguished statesman) the "imposition is laid, not by the Representatives of those who pay the tax, but by the Representatives of those who are to receive the bounty?" Sir, representation will afford us ample security, if the Federal Government shall be strictly confined within the limits prescribed by the constitution, and if, limiting its action to matters in which all have a common interest, the system shall be made to operate equally over the whole country. But it will afford us none if the will of an interested majority shall be the supreme law, and Congress shall undertake to legislate for us in all cases whatsoever. Before I leave this branch of the subject, I must remark, that, while gentlemen admit, as they do, that the courts may nullify an act of Congress, by declaring it to be unconstitutional, it is impossible for them to contend that Congress are the final judges of the extent of their own powers.

I think I have now shown that the right of a State to judge of infractions of the constitution, on the part of the Federal Government, results from the very nature of the compact: and that, neither by the express provisions of that instrument, nor by any fair implication, is such a power reserved to the Federal Government, or any of its departments—executive, legislative, or judicial. But I go farther, and contend that the power in question may be fairly considered as reserved to the States, by that clause of the constitution before referred to, which provides that all powers not delegated to the United States, are reserved to the States, respectively, or to the people.

No doubt can exist, that, before the States entered into the compact, they possessed the right, to the fullest extent, of determining the limits of their own powers—it is incident to all sovereignty. Now, have they given away that right, or agreed to limit or restrict it in any respect? Assuredly not. They have agreed that certain specific powers shall be exercised

by the Federal Government; but the moment that government steps beyond the limits of its charter, the right of the States "to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties, appertaining to them," is as full and complete as it was before the constitution was formed. It was plenary then, and never having been surrendered, must be plenary now. But what then, asks the gentleman? A State is brought into collision with the United States in relation to the exercise of unconstitutional powers: who is to decide between them? Sir, it is the common case of difference of opinion between sovereigns as to the true construction of a compact. Does such a difference of opinion necessarily produce war? No. And if not among rival nations, why should it do so among friendly States? In all such cases, some mode must be devised by mutual agreement, for settling the difficulty; and most happily for us that mode is clearly indicated in the constitution itself, and results, indeed, from the very form and structure of the Government. The creating power is three-fourths of the States. By their decision, the parties to the compact have agreed to be bound, even to the extent of changing the entire form of the Government itself; and it follows, of necessity, that, in case of a deliberate and settled difference of opinion between the parties to the compact, as to the extent of the powers of either, resort must be had to their common superior—(that power which may give any character to the constitution they may think proper) viz: three-fourths of the States. This is the view of the matter taken by Mr. Jefferson himself, who, in 1821, expressed himself in this emphatic manner: "It is a fatal heresy to suppose that either our State Governments are superior to the Federal or the Federal to the State; neither is authorized literally to decide what belongs to itself, or its co-partner in Government, in difference of opinion between their different sets of public servants; the appeal is to neither, but to their employers, peaceably assembled by their representatives in convention."

But it has been asked, why not compel a State, objecting to the constitutionality of a law, to appeal to her sister States, by a proposition to amend the constitution? I answer, because such a course would, in the first instance, admit the exercise of an unconstitutional authority, which the States are not bound to submit to, even for a day, and because it would be absurd to suppose that any redress could ever be obtained by such an appeal, even if a State were at liberty to make it. If a majority of both Houses of Congress should, from any motive, be induced, deliberately, to exercise "powers not granted," what prospect would there be of "arresting the progress of the evil," by a vote of three-fourths? But the constitution does not permit a minority to submit to the people a proposition for an amendment to the constitution. Such a proposition can only come



from "two-thirds of the two Houses of Congress, or the Legislatures of two-thirds of the States." It will be seen, therefore, at once, that a minority, whose constitutional rights are violated, can have no redress by an amendment of the constitution. When any State is brought into direct collision with the Federal Government, in case of an attempt, by the latter, to exercise unconstitutional powers, the appeal must be made by Congress, (the party proposing to exert the disputed power,) in order to have it expressly conferred, and, until so conferred, the exercise of such authority must be suspended. Even in cases of doubt such an appeal is due to the peace and harmony of the Government. On this subject our present Chief Magistrate, in his opening message to Congress, says: "I regard an appeal to the source of power, in cases of real doubt, and where its exercise is deemed indispensable to the general welfare, as among the most sacred of all our obligations. Upon this country, more than any other, has, in the providence of God, been cast the especial guardianship of the great principle of adherence to written constitutions. If it fall here, all hope in regard to it will be extinguished. That this was intended to be a Government of limited and specific, and not general powers, must be admitted by all; and it is our duty to preserve for it the character intended by its framers. The scheme has worked well. It has exceeded the hopes of those who devised it, and become an object of admiration to the world. Nothing is clearer, in my view, than that we are chiefly indebted for the success of the constitution under which we are now acting, to the watchful and auxiliary operation of the State authorities. This is not the reflection of a day, but belongs to the most deeply rooted convictions of my mind. I cannot, therefore, too strongly or too earnestly, for my own sense of its importance, warn you against all encroachments upon the legitimate sphere of State sovereignty. Sustained by its healthful and invigorating influence, the Federal system can never fall."

But the gentleman apprehends that this will "make the Union a rope of sand." Sir, I have shown that it is a power indispensably necessary to the preservation of the constitutional rights of the States, and of the people. I now proceed to show that it is perfectly safe, and will practically have no effect but to keep the Federal Government within the limits of the constitution, and prevent those unwarrantable assumptions of power, which cannot fail to impair the rights of the States, and finally destroy the Union itself. This is a Government of checks and balances. All free Governments must be so. The whole organization and regulation of every department of the Federal as well as of the State Governments, establish, beyond a doubt, that it was the first object of the great fathers of our Federal system to interpose effectual checks to prevent that over-action, which is the besetting sin of all Governments, and

which has been the great enemy to freedom over all the world. There is an obvious and wide distinction between the power of acting, and of preventing action—a distinction running through the whole of our system. No one can question that, in all really doubtful cases, it would be extremely desirable to leave things as they are. And how happy would it be for mankind, and how greatly would it contribute to the peace and tranquillity of this country, and to that mutual harmony on which the preservation of the Union must depend, that the Federal Government (confining its operations to subjects clearly federal) should only be felt in the blessings which it dispenses. Look, sir, at our system of checks. The House of Representatives checks the Senate, the Senate checks the House, the Executive checks both, the Judiciary checks the whole; and it is in the true spirit of this system, that the States should check the Federal Government, at least so far as to preserve the constitution from "gross, palpable, and deliberate violations," and to compel an appeal to the amending power, in cases of real doubt and difficulty. That the States possess this right seems to be acknowledged by Alexander Hamilton himself. In the 51st number of the *Federalist* he says, "that, in a single republic, all the powers surrendered by the people are submitted to the administration of a single government, and usurpations are guarded against by a division of the government into separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each, subdivided into separate departments; hence a double security arises to the rights of the people. The different governments will control each other, at the same time each will be controlled by itself."

I have already shown, that it has been fully recognized by the Virginia resolutions of '98, and by Mr. Madison's report on these resolutions, that it is not only "the right but the duty of the States" to "judge of infractions of the constitution," and "to interpose for maintaining, within their limits, the authorities, rights, and liberties, appertaining to them."

Mr. Jefferson, on various occasions, expressed himself in language equally strong. In the Kentucky resolutions, of '98, prepared by him, it is declared that the Federal Government "was not made the exclusive and final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself as well of infractions as the mode and measure of redress."

In the Kentucky resolutions of '98, it is even more explicitly declared, "that the several States which formed the constitution, being sovereign and independent, have the unquestionable right to judge of the infraction, and to redress it by such measures as they may think proper."

JANUARY, 1890.]

*Mr. Foot's Resolution—Nullification.*

[SENATE]

tionable right to judge of its infractions, and that a nullification by those sovereignties of all unauthorized acts done under color of that instrument, is the rightful remedy."

But the gentleman says this right will be dangerous. Sir, I insist, that, of all the checks that have been provided by the constitution, this is by far the safest, and the least liable to abuse. It is admitted by the gentleman, that the Supreme Court may declare a law to be unconstitutional and check your further progress. Now, the Supreme Court consists of only seven judges; four are a quorum, three of whom are a majority, and may exercise this mighty power. Now, the judges of this court are without any direct responsibility, in matters of opinion, and may certainly be governed by any of the motives which it is supposed will influence a State in opposing the acts of the Federal Government. Sir, it is not my desire to excite prejudice against the Supreme Court. I not only entertain the highest respect for the individuals who compose that tribunal, but I believe they have rendered important services to the country; and that, confined within their appropriate sphere, (the decision of questions "of law and equity," they will constitute a fountain from which will forever flow the streams of pure and undefiled justice, diffusing blessings throughout the land. I object, only, to the assumption of political power, by the Supreme Court—a power which belongs not to them, and which they cannot safely exercise. But, surely, a power which the gentleman is willing to confide to three judges of the Supreme Court, may safely be intrusted to a sovereign State. Sir, there are so many powerful motives to restrain a State from taking such high ground as to interpose her sovereign power to protect her citizens from unconstitutional laws, that the danger is not that this power will be wantonly exercised, but that she will fail to exert it, even on proper occasions.

A State will be restrained by a sincere love of the Union. The people of the United States cherish a devotion to the Union, so pure, so ardent, that nothing short of intolerable oppression can ever tempt them to do any thing that may possibly endanger it. Sir, there exists, moreover, a deep and settled conviction of the benefits which result from a close connection of all the States for purposes of mutual protection and defence. This will co-operate with the feelings of patriotism to induce a State to avoid any measures calculated to endanger that connection. A State will always feel the necessity of consulting public opinion, both at home and abroad, before she resorts to any measures of such a character. She will know that, if she acts rashly, she will be abandoned even by her own citizens, and will utterly fail in the object she has in view. If, as is asserted in the Declaration of Independence, all experience has proved that mankind are more disposed to suffer, while evils are sufferable, than to resort to measures for redress why should this case be an excep-

tion, where so many additional motives must always be found for forbearance? Look at our own experience on this subject. Virginia and Kentucky, so far back as '98, avowed the principles for which I have been contending—principles which have never since been abandoned; and no instance has yet occurred in which it has been found necessary, practically, to exert the power asserted in those resolutions.

If the alien and sedition laws had not been yielded to the force of public opinion, there can be no doubt that the State of Virginia would have interposed to protect her citizens from its operation. And, if the apprehension of such an interposition by a State should have the effect of restraining the Federal Government from acting, except in cases clearly within the limits of their authority, surely no one can doubt the beneficial operation of such a restraining influence. Mr. Jefferson assures us that the embargo was actually yielded up, rather than force New England into open opposition to it. And it was right to yield it, sir, to the honest convictions of its unconstitutionality entertained by so large a portion of our fellow-citizens. If the knowledge that the States possess the constitutional right to interpose, in the event of "gross, deliberate, and palpable violations of the constitution," should operate to prevent a perseverance in such violations, surely the effect would be greatly to be desired. But there is one point of view in which this matter presents itself to my mind with irresistible force. The Supreme Court, it is admitted, may nullify an act of Congress, by declaring it to be unconstitutional. Can Congress, after such a nullification, proceed to enforce the law, even if they should differ in opinion from the Court? What, then, would be the effect of such a decision? And what would be the remedy in such a case? Congress would be arrested in the exercise of the disputed power, and the only remedy would be an appeal to the creating power, three-fourths of the States, for an amendment of the constitution. And by whom must such an appeal be made? It must be made by the party proposing to exercise the disputed power. Now I will ask whether a sovereign State may not be safely intrusted with the exercise of a power, operating merely as a check, which is admitted to belong to the Supreme Court, and which may be exercised every day, by any three of its members? Sir, no ideas that can be formed of arbitrary power on the one hand, and abject dependence on the other, can be carried further than to suppose that three individuals, mere men, "subject to like passions with ourselves," may be safely intrusted with the power to nullify an act of Congress, because they conceive it to be unconstitutional; but that a sovereign and independent State, even the great State of New York, is bound, implicitly, to submit to its operation, even where it violates, in the grossest manner, her own rights, or the liberties of her citizens. But we

do not contend that a common case would justify the interposition.

This is "the extreme medicine of the State," and cannot become our daily bread.

Mr. Madison, in his report, says:

"It does not follow, however, that, because the States, as sovereign parties to their constitutional compact, must ultimately decide whether it has been violated; that such a decision ought to be interposed either in a hasty manner, or on doubtful and inferior occasions. Even in the case of ordinary conventions, between different nations, where, by the strict rule of interpretation, a breach of a part may be deemed a breach of the whole; every part being deemed a condition of every other part, and of the whole, it is always laid down, that the breach must be both wilful and material, to justify an application of the rule. But in the case of an intimate and constitutional Union, like that of the United States, it is evident that the interposition of the parties, in their sovereign capacity, can be called for by occasions, only, deeply and essentially affecting the vital principles of their political systems."

"The resolution has, accordingly, guarded against any misapprehension of its object, by expressly requiring, for such an interposition, 'the case of a deliberate, palpable, and dangerous breach of the constitution, by the exercise of powers not granted by it.' It must be a case, not of a light and transient nature, but of a nature dangerous to the great purposes for which the constitution was established. It must be a case, moreover, not obscure or doubtful in its construction, but plain and palpable. Lastly, it must be a case, not resulting from a partial consideration, or hasty determination, but a case stamped with a final consideration and deliberate adherence. It is not necessary, because the resolution does not require that the question should be discussed how far the exercise of any particular power, ungranted by the constitution, would justify the interposition of the parties to it; as cases might easily be stated which none would contend ought to fall within that description, and cases, on the other hand, might, with equal ease, be stated, so flagrant and so fatal, as to unite every opinion in placing them within the description."

"But the resolution has done more than guard against misconstruction, by expressly referring to cases of a deliberate, palpable, and dangerous nature. It specifies the object of the interposition which it contemplates, to be, solely, that of arresting the progress of the evil of usurpation, and of maintaining the authorities, rights, and liberties, appertaining to the States, as parties to the constitution."

No one can read this without perceiving that Mr. Madison goes the whole length in support of the principles for which I have been contending.

The gentleman has called upon us to carry out our scheme practically. Now, sir, if I am correct in my view of this matter, then it follows, of course, that the right of a State being established, the Federal Government is bound to acquiesce in a solemn decision of a State, acting in its sovereign capacity, at least so far as to make an appeal to the people for an amendment to the constitution. This solemn decision of a State (made either through its

Legislature, or a convention, as may be supposed to be the proper organ of its sovereign will—a point I do not propose now to discuss) binds the Federal Government, under the highest constitutional obligation, not to resort to any means of coercion against the citizens of the dissenting State. How, then, can any collision ensue between the Federal and State Governments, unless, indeed, the former should determine to enforce the law by unconstitutional means? What could the Federal Government do, in such a case? Resort, says the gentleman, to the courts of justice. Now, can any man believe, that, in the face of a solemn decision of a State, that an act of Congress is "a gross, palpable, and deliberate violation of the constitution," and the interposition of its sovereign authority to protect its citizens from the usurpation, that juries could be found ready merely to register the decrees of the Congress, wholly regardless of the unconstitutional character of their acts? Will the gentleman contend that juries are to be coerced to find verdicts at the point of the bayonet? And if not, how are the United States to enforce an act solemnly pronounced to be unconstitutional? But, if the attempt should be made to carry such a law into effect, by force, in what would the case differ from an attempt to carry into effect an act nullified by the courts, or to do any other unlawful and unwarrantable act? Suppose Congress should pass an agrarian law, or a law emancipating our slaves, or should commit any other gross violation of our constitutional rights, will any gentleman contend that the decision of every branch of the Federal Government, in favor of such laws, could prevent the States from declaring them null and void, and protecting their citizens from their operation?

Sir, if Congress should ever attempt to enforce any such laws, they would put themselves so clearly in the wrong, that no one could doubt the right of the State to exert its protecting power.

Sir, the gentleman has alluded to that portion of the militia of South Carolina with which I have the honor to be connected, and asked how they would act in the event of the nullification of the tariff law by the State of South Carolina? The tone of the gentleman, on this subject, did not seem to me as respectful as I could have desired. I hope, sir, no imputation was intended.

[Mr. WEBSTER. "Not at all; just the reverse."]

Well, sir, the gentleman asks, what their leaders would be able to read to them out of Coke upon Littleton, or any other law book, to justify their enterprise? Sir, let me assure the gentleman that, whenever any attempt shall be made from any quarter, to enforce unconstitutional laws, clearly violating our essential rights, our leaders (whoever they may be) will not be found reading black letter from the musty pages of old law books. They will look to the constitution, and when called upon, by

JANUARY, 1890.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

the sovereign authority of the State, to preserve and protect the rights secured to them by the charter of their liberties, they will succeed in defending them, or "perish in the last ditch."

Sir, I will put the case home to the gentleman. Is there any violation of the constitutional rights of the States, and the liberties of the citizen, (sanctioned by Congress and the Supreme Court,) which he would believe it to be the right and duty of a State to resist? Does he contend for the doctrine of "passive obedience and non-resistance?" Would he justify an open resistance to an act of Congress, sanctioned by the courts, which should abolish the trial by jury, or destroy the freedom of religion, or the freedom of the press? Yes, sir, he would advocate resistance in such cases; and so would I, and so would all of us. But such resistance would, according to his doctrine, be revolution; it would be rebellion. According to my opinion, it would be just, legal, and constitutional resistance. The whole difference between us, then, consists in this: The gentleman would make force the only arbiter in all cases of collision between the States and the Federal Government. I would resort to a peaceful remedy, the interposition of the State to "arrest the progress of the evil," until such time as "a convention (assembled at the call of Congress, or two-thirds of the States) shall decide to which they mean to give an authority claimed by two of their organs." Sir, I say with Mr. Jefferson, (whose words I have here borrowed,) that "it is the peculiar wisdom and felicity of our constitution to have provided this peaceable appeal, where that of other nations" (and I may add that of the gentleman) "is at once to force."

The gentleman has made an eloquent appeal to our hearts in favor of union. Sir, I cordially respond to that appeal. I will yield to no gentleman here in sincere attachment to the Union; but it is a union founded on the constitution, and not such a union as that gentleman would give us, that is dear to my heart. If this is to become one great "consolidated Government," swallowing up the rights of the States, and the liberties of the citizen, "riding over the plundered ploughmen and beggared yeomanry," the Union will not be worth preserving. Sir, it is because South Carolina loves the Union, and would preserve it forever, that she is opposing now, while there is hope, those usurpations of the Federal Government which, once established, will, sooner or later, tear this Union into fragments. The gentleman is for marching under a banner, studded all over with stars, and bearing the inscription Liberty and Union. I had thought, sir, the gentleman would have borne a standard, displaying in its ample folds a brilliant sun, extending its golden rays from the centre to the extremities, in the brightness of whose beams the "little stars" hide their diminished heads." Ours, sir, is the banner of the constitution: the twenty-four

stars are there, in all their undiminished lustre: on it is inscribed, Liberty—the Constitution—Union. We offer up our fervent prayers to the Father of all Mercies that it may continue to wave, for ages yet to come, over a free, a happy, and a united people.

Mr. WEBSTER now took the floor, in conclusion, and said: A few words, Mr. President, on this constitutional argument, which the honorable gentleman has labored to reconstruct.

His argument consists of two propositions, and an inference. His propositions are—

1. That the constitution is a compact between the States.

2. That a compact between two, with authority reserved to one to interpret its terms, would be a surrender to that one, of all power whatever.

3. Therefore, (such is his inference,) the General Government does not possess the authority to construe its own powers.

Now, sir, who does not see, without the aid of exposition or detection, the utter confusion of ideas, involved in this, so elaborate and systematic argument?

The constitution, it is said, is a compact between States; the States, then, and the States only, are parties to the compact. How comes the General Government itself a party? Upon the honorable gentleman's hypothesis, the General Government is the result of the compact, the creature of the compact, not one of the parties to it. Yet the argument, as the gentleman has now stated it, makes the Government itself one of its own creators. It makes it a party to that compact to which it owes its own existence.

For the purpose of erecting the constitution on the basis of a compact, the gentleman considers the States as parties to that compact; but as soon as his compact is made, then he chooses to consider the General Government, which is the offspring of that compact, not its offspring, but one of its parties; and so, being a party, has not the power of judging on the terms of compact. Pray, sir, in what school is such reasoning as this taught?

If the whole of the gentleman's main proposition were conceded to him, that is to say—if I admit for the sake of the argument, that the constitution is a compact between States, the inferences which he draws from that proposition are warranted by no just reason. Because, if the constitution be a compact between States, still, that constitution or that compact, has established a Government, with certain powers; and whether it be one of those powers, that it shall construe and interpret for itself the terms of the compact, in doubtful cases, can only be decided by looking to the compact, and inquiring what provisions it contains on this point. Without any inconsistency with natural reason, the Government, even thus created, might be trusted with this power of construction. The extent of its powers, therefore, must still be sought for in the instrument itself.

If the old confederation had contained a clause, declaring that resolutions of the Congress should be the supreme law of the land, any State law or constitution to the contrary notwithstanding, and that a Committee of Congress, or any other body created by it, should possess judicial powers, extending to all cases arising under resolutions of Congress, then the power of ultimate decision would have been vested in Congress, under the confederation, although that confederation was a compact between States; and for this plain reason, that it would have been competent to the States, who alone were parties to the compact, to agree who should decide in cases of dispute arising on the construction of the compact.

For the same reason, sir, if I were now to concede to the gentleman his principal propositions, viz: that the constitution is a compact between States, the question would still be, what provision is made, in this compact, to settle points of disputed construction, or contested power, that shall come into controversy? And this question would still be answered, and conclusively answered, by the constitution itself. While the gentleman is contending against construction, he himself is setting up the most loose and dangerous construction. The constitution declares that the laws of Congress shall be the supreme law of the land. No construction is necessary here. It declares, also, with equal plainness and precision, that the judicial power of the United States shall extend to every case arising under the laws of Congress. This needs no construction, here is a law, then, which is declared to be supreme; and here is a power established, which is to interpret that law. Now, sir, how has the gentleman met this? Suppose the constitution to be a compact, yet here are its terms, and how does the gentleman get rid of them? He cannot argue the seal off the bond, nor the words out of the instrument. Here they are—what answer does he give to them? None in the world, sir, except that the effect of this would be to place the States in a condition of inferiority; and because it results, from the very nature of things, there being no superior, that the parties must be their own judges! Thus closely and cogently does the honorable gentleman reason on the words of the constitution. The gentleman says, if there be such a power of final decision in the General Government, he asks for the grant of that power. Well, sir, I show him the grant—I turn him to the very words—I show him that the laws of Congress are made supreme; and that the judicial power extends, by express words, to the interpretation of these laws. Instead of answering this, he retreats into the general reflection, that it must result, from the nature of things, that the States, being parties, must judge for themselves.

I have admitted, that, if the constitution were to be considered as the creature of the State Governments, it might be modified, in-

terpreted, or construed, according to their pleasure. But, even in that case, it would be necessary that they should agree. One, alone, could not interpret it conclusively; one, alone, could not construe it; one, alone, could not modify it. Yet the gentleman's doctrine is, that Carolina, alone, may construe and interpret that compact which equally binds all, and gives equal rights to all.

So then, sir, even supposing the constitution to be a compact between the States, the gentleman's doctrine, nevertheless, is not maintainable; because, first, the General Government is not a party to that compact, but a Government established by it, and vested by it with the powers of trying and deciding doubtful questions; and secondly, because, if the constitution be regarded as a compact, not one State only, but all the States, are parties to that compact, and one can have no right to fix upon it her own peculiar construction.

So much, sir, for the argument, even if the premises of the gentleman were granted, or could be proved. But, sir, the gentleman has failed to maintain his leading proposition. He has not shown, it cannot be shown, that the constitution is a compact between State Governments. The constitution itself, in its very front, refutes that proposition: it declares that it is ordained and established by the people of the United States. So far from saying that it is established by the Governments of the several States, it does not even say that it is established by the people of the several States; but it pronounces that it is established by the people of the United States in the aggregate. The gentleman says, it must mean no more than that the people of the several States, taken collectively, constitute the people of the United States; be it so, but it is in this, their collective capacity; it is as all the people of the United States that they establish the constitution. So they declare; and words cannot be plainer than the words used.

When the gentleman says the constitution is a compact between the States, he uses language exactly applicable to the old confederation. He speaks as if he were in Congress before 1789. He describes fully that old state of things then existing. The confederation was, in strictness, a compact; the States, as States, were parties to it. We had no other General Government. But that was found insufficient, and inadequate to the public exigencies. The people were not satisfied with it, and undertook to establish a better. They undertook to form a General Government, which should stand on a new basis—not a confederacy, not a league, not a compact between States, but a constitution; a popular Government, founded in popular election, directly responsible to the people themselves and divided into branches, with prescribed limits of power, and prescribed duties. They ordained such a Government; they gave it the name of a constitution, and therein they established a distribution of powers between

FEBRUARY, 1850.]

*Mr. Foot's Resolution.*

[SENATE.]

this, their General Government, and their several State Governments. When they shall become dissatisfied with this distribution, they can alter it. Their own power over their own instrument remains. But, until they shall alter it, it must stand as their will, and is equally binding on the General Government and on the States.

The gentleman, sir, finds analogy, where I see none. He likens it to the case of a treaty, in which, there being no common superior, each party must interpret for itself, under its own obligation of good faith. But this is not a treaty, but a constitution of Government, with powers to execute itself, and fulfil its duties.

I admit, sir, that this Government is a Government of checks and balances; that is, the House of Representatives is a check on the Senate, and the Senate is a check on the House, and the President is a check on both. But I cannot comprehend him, or, if I do, I totally differ from him, when he applies the notion of checks and balances to the interference of different Governments. He argues that, if we transgress, each State, as a State, has a right to check us. Does he admit the converse of the proposition, that we have a right to check the States? The gentleman's doctrines would give us a strange jumble of authorities and powers, instead of Governments of separate and defined powers. It is the part of wisdom, I think, to avoid this; and to keep the General Government and the State Governments, each in its proper sphere, avoiding, as carefully as possible, every kind of interference.

Finally, sir, the honorable gentleman says, that the States will only interfere, by their power, to preserve the constitution. They will not destroy it, they will not impair it—they will only save, they will only preserve, they will only strengthen it! Ah, sir, this is but the old story. All regulated Governments, all free Governments, have been broken up by similar disinterested and well-disposed interference! It is the common pretence. But I take leave of the subject.

[Here the debate closed for this day.]

TUESDAY, February 2.

*Mr. Foot's Resolution.*

Mr. BENTON \* said: Among the novelties of this debate, is that part of the speech of the

Senator from Massachusetts which dwells with such elaboration of argument and ornament, upon the love and blessings of Union—the hatred and horror of disunion. It was a part of the Senator's speech which brought into full play the favorite Ciceronian figure of amplification. It was up to the rule in that particular. But, it seemed to me, that there was another rule, and a higher, and a precedent one, which it violated. It was the rule of propriety; that rule which requires the fitness of things to be considered; which requires the time, the place, the subject, and the audience, to be considered; and condemns the delivery of the argument, and all its flowers, if it fails in congruence to these particulars. I thought the essay upon union and disunion had so failed. It came to us when we were not prepared for it; when there was nothing in the Senate, nor in the country, to grace its introduction; nothing to give, or to receive, effect to, or from, the impassioned scene that we witnessed. It may be, it was the prophetic cry of the distracted daughter of Priam, breaking into the council, and alarming its tranquil members with vaticinations of the fall of Troy; but to me, it all sounded like the sudden proclamation for an earthquake, when the sun, the earth, the air, announced no such prodigy; when all the elements of nature were at rest, and sweet repose pervading the world. There was a time, and you, and I, and all of us, did see it, sir, when such a speech would have found, in its delivery, every attribute of a just and rigorous propriety! It was at a time, when the five-striped banner was waving over the land of the North! when the Hartford Convention was in session! when the language in the capitol was, "Peaceably, if we can; forcibly, if we must!" when the cry, out of doors, was, "the Potomac the boundary; the negro States by themselves! The Alleghanies the boundary; the Western savages by themselves! The Mississippi the boundary, let Missouri be governed by a prefect, or given up as a haunt for wild beasts!" That time was the fit occasion for this speech; and if it had been delivered then, either in the hall of the House of Representatives, or in the den of the convention, or in the high way, among the bearers and followers of the five-striped banner, what effects must it not have produced! What terror and

was to be effected constitutionally by the co-operation of the States in appealing to public sentiment and influencing the elections. Taking Mr. Hayne's speech and doctrine in this sense, he considered Mr. Webster's attribution of a disunion design in South Carolina to be groundless and unfounded, and brought forward as a set-off to the old Hartford Convention business in New England. And thus, viewing the imputed disunion design as unfounded, and merely produced as a counterpoise to the imputation against New England, he made a few remarks to that effect, and to show that the supremacy of the Supreme Court was over inferior courts, and not over the States and Congress. These remarks are here given, and show the sense in which they were spoken.

\* Mr. Benton spoke fully on other branches of this debate, but nothing on the nullification branch of it. He did not then believe in any design of forcible resistance to the Tariff laws of the United States; nor did he believe in that design until the enactment of the South Carolina nullifying ordinance of November, 1852. He believed at the time of the debate that Mr. Hayne spoke, as he alleged, in the Virginia sense of nullification; that is—that the act in question was null and void, as being against the constitution, but to be obeyed while it remained unrepealed; and that its repeal

consternation among the plotters of disunion! But, here, in this loyal and quiet assemblage, in this season of general tranquillity and universal allegiance, the whole performance has lost its effect for want of affinity, connection, or relation, to any subject depending, or sentiment expressed, in the Senate; for want of any application, or reference, to any event impending in the country.

I now take leave of this part of my subject, with one expression of unmixed satisfaction, at a part, a very small part, of the speech of the Senator from Massachusetts; it is the part in which he disclaimed, in reply to an inquiry from you, sir, the imputation of a change of policy on the Tariff and Internal Improvement questions. Before that disclaimer was heard, a thousand voices would have sworn to the imputation; since, no one will swear it. And the reason given for not referring to you, for not speaking at you, was decent and becoming. You have no right of reply, and manhood disdains to attack you. This I comprehend to have been the answer, and the reason so promptly given by the Senator from Massachusetts in reply to your inquiry. I am pleased at it. It gives me an opportunity of saying there was something in that speech which commands my commendation, and, at the same time, relieves me from the duty of stating to the Senate a reason why the presiding officer, being Vice President of the United States, should not be struck at from this floor. He cannot reply, and that disability is his shield in the eyes of all honorable men.

I touched it incidentally, towards the conclusion of my speech of yesterday, on the large—I think I may say despotic—power, claimed by the Senator from Massachusetts (Mr. WEBSTER) for the Federal Supreme Court, over the independent States, whose voluntary union has established this confederacy. I touched incidentally upon it, and now recur to it for the purpose of making a single remark, and presenting a single illustration of the consequences of that doctrine. That court is called supreme; but this character of supremacy, which the Federal constitution bestows upon it, has reference to inferior courts—the District and Circuit Courts—and not to the States of this Union. A power to decide on the Federal constitutionality of State laws, and to bind the States by the decision, in all cases whatsoever, is a power to govern the States. It is a power over the sovereignty of the States; and that power includes, in its practical effects, authority over every minor act and proceeding of the States. The range of Federal authority was large, under the words of the constitution; it is becoming unlimited under the assumption of implied powers. The room for conflict between Federal and State laws was sufficiently ample, in cultivating the clear and open field of the expressed powers; when the exploration of the wilderness of implications is to be added to it, the recurrence of these conflicts becomes

incessant and universal, covering all time, and meeting at every point of Federal or State policy. The annihilation of the States, under a doctrine which would draw all these conflicts to the Federal Judiciary, and make its decisions binding upon the States, and subjected to the penalties of treason all who resisted the execution of these decrees, would produce that consequence. It would annihilate the States! It would reduce them to the abject condition of provinces of the Federal Empire! It would enable the dominant party in Congress, at any moment, to execute the most frightful designs. Let us suppose a case—one by no means improbable—on the contrary almost absolutely certain, in the event of the success of certain measures now on foot: The late Mr. King, of New York, when a member of the American Senate, declared, upon this floor, that slavery in these United States, in point of law and right, did not exist, and could not exist, under the nature of our free form of Government; and that the Supreme Court of the United States would so declare it. This declaration was made about ten years ago, in the crisis and highest paroxysm of the Missouri agitation. Since then, we have seen this declaration repeated and enforced, in every variety of form and shape, by an organized party in all the non-slaveholding States. Since then, we have seen the principles of the same declaration developed in legislative proceedings, in the shape of committee reports and public debate, in the halls of Congress. Since then, we have had the D'Auterive case, and seen a petition presented from the Chair of the House of Representatives, Mr. JOHN W. TAYLOR being Speaker, in which the total destruction of all the States that would not abandon slavery was expressly represented as a sublime act. With these facts before us, and myriads of others which I cannot repeat, but which are seen by all, the probability of a federal legislative act against slavery rises in the scale, and assumes the character of moral certainty, in the event of the success of certain designs now on foot. So much for what may happen in Congress. Now for the Judiciary. I have just referred to the declaration of an ex-Senator, (Mr. KIVE of New York,) of all others the best acquainted with the *arcana* of his party; who was to that party, for a full quarter of a century, the law and the prophets; for a bold assertion of what the Supreme Court would do in a question of existence, or non-existence, of slavery in the United States. He openly asserted the Supreme Court would declare that no such thing could exist! It is not to be presumed that that aged, experienced, informed and responsible Senator would have hazarded an assertion of such dire and dreadful import; an assertion so delicately affecting the judges then on the bench of that court; a majority of them his personal and political friends; and looking to such disastrous consequences to the Union, without probable, if not certain, ground for the basis

FEBRUARY, 1830.]

Indian Agencies.

[SENATE]

of his assertion. That he had such grounds, so far at least as one of the judges was concerned, seems to be incontestable. A charge delivered to a grand jury by Mr. Justice Story, at Portsmouth, New Hampshire, in the month of May, 1820—for the date is material—it tallies, in point of time, with the assertion in the Senate, and was classed for review as an article of politics, in the North American Review, with the substance of Mr. King's two speeches on the floor of the Senate, which were the signal for the Missouri strife—a signal as well understood and as implicitly obeyed, as the signal for battle in the Roman camp, when the Red Mantle of the Consul was hung on the outside of the tent. This charge, to a grand jury, establishes the fact of authority for the assertion of Mr. King so far at least as one of the Judges is concerned. But as every man should be judged by his own words, and not upon the recital of another, let the charge itself be read; let the Judge announce his own sentiments, in his own language.

*The Charge—Extract.*

"The existence of slavery under any shape is so repugnant to the natural rights of man and the dictates of justice, that it seems difficult to find for it any adequate justification. It undoubtedly had its origin in times of barbarism, and was the ordinary lot of those who were conquered in war. It was supposed that the conqueror had a right to take the life of his captive, and by consequence might well bind him to perpetual servitude. But the position itself on which this supposed right is founded is not true. No man has a right to kill his enemy, except in cases of absolute necessity; and this absolute necessity ceases to exist, even in the estimation of the conqueror himself, when he has spared the life of his prisoner. And even if, in such cases, it were possible to contend for the right of slavery, as to the prisoner himself, it is impossible that it can justly extend to his innocent offspring, through the whole line of descent. I forbear, however, to touch on this delicate topic, not because it is not worthy of the most deliberate attention of all of us, but it does not properly fall in my province on the present occasion."

"And, gentlemen, how can we justify ourselves, or apologize for an indifference to this subject? Our constitutions of government have declared that all men are born free and equal, and have certain unalienable rights, among which are the right of enjoying their lives, liberty, and property, and seeking and obtaining their own safety and happiness. May not the miserable African ask, 'Am I not a man and a brother?' We boast of our noble strength against the encroachments of tyranny, but do we forget that it assumed the mildest form in which authority ever assailed the rights, and yet there are men amongst us who think it no wrong to condemn the shivering negro to perpetual slavery."

"We believe in the Christian religion. It commands us to have good will to all men; to love our neighbors as ourselves, and to do unto all men as we would they should do unto us. It declares our ac-

countability to the Supreme God for all our actions, and holds out to us a state of future rewards and punishments, as the sanction by which our conduct is to be regarded. And yet there are men, calling themselves Christians, who degrade the negro by ignorance to a level with the brutes, and deprive him of all the consolations of religion. He alone, of all the rational creation, they seem to think, is to be at once accountable for his actions, and yet his actions are not to be at his own disposal; but his mind, his body, and his feelings are to be sold to perpetual bondage."

We will take the case of slavery then as the probable, and in the event of the success of certain designs now on foot, as the certain one, on which the new doctrine of judicial supremacy over the States may be tried. The case of the Georgia Cherokees is a more proximate, and may be a precedent one; but as no intimation of the possible decision of the court in that case has been given, I shall pretermit it, and limit myself to the slavery case, in which the declaration of Mr. King, and the charge of one of the judges, leaves me at liberty to enter, without guilt of intrusion, into that *sanctum sanctorum* of the judiciary—the privy chamber of the judges—the door of which has been flung wide open. Let us suppose then that a law of Congress passes, declaring that slavery does not exist in the United States—that the States south of the Potomac and Ohio, with Missouri from the West of the Mississippi, deny the constitutionality of the law—that the Supreme Court takes cognizance of the denial—commands the refractory States to appear at its bar—decides in favor of the law of Congress, and puts forth the decree which, according to the new doctrine, it is treason to resist! What next? Either acquiescence or resistance, on the part of the slave States. Acquiescence involves, on the part of the States towards this court, a practical exemplification of the old slavish doctrines of passive obedience and non-resistance which the Sacheverells of Queen Anne's time preached and promulgated in favor of the King against the subject; with all the mischief, superadded, of turning loose two millions of slaves here, as the French National Convention and their agents, Santhonax and La Croix, had turned loose the slaves of the West India islands. Resistance incurs all the guilt of treason and rebellion; draws down upon the devoted States the troops and fanatics of the Federal Government; arms all the negroes according to the principle declared in D'Aute-ri-ve's case, and calls in, by way of attending to the women and children, the knife and the hatchet of those Georgia Cherokees which it is now the organized policy of a political party to retain, and maintain, in the bosom of the South.

THURSDAY, February 4.

*Indian Agencies.*

The bill authorizing the President of the



United States to divide Indian agencies in certain cases was read the second time; when

Mr. WHITE, the Chairman of the Committee on Indian Affairs, said, that the bill originated from a resolution submitted by the Senator from Missouri, (Mr. BENTON,) and was framed by the committee after an examination into the subject, together with such information as the committee had before them. The bill contained nothing which would compel the President to divide any of the Indian agencies; it merely provided that he might do it, when the public good, and the convenience and comfort of the agents themselves might, in his opinion, require it; there being no additional expense created by the provisions of the bill, as the compensation now given to one agent was to be divided when the agency was divided. It appeared to the committee that many of the Indian tribes were divided into different bands, residing at remote points from each other, and the consequence was, that the agents for such tribes, selecting their own places of residence, either located themselves in one of the frontier towns, or resided with one of the separate bands, and thus the business of the Government could not be as well transacted as if the agent had all the Indians under his care, placed immediately within his own view. If the agent selected the town of one of the bands belonging to the tribe placed under his superintendence, for his place of residence, instead of the other, jealousies and heart-burnings were engendered; and the band that believed itself to be neglected were too apt to accuse him of partiality and injustice. In some instances, agents had two distinct tribes placed under their superintendence, and thus a greater inconvenience was created than where one tribe was divided into two bands. Under every view which the committee had been able to take of the subject, they were of opinion that the adoption of the measure proposed in the bill would be productive of much good, without the possibility of any disadvantage resulting from it.

Mr. BAXTON said that, from the information he had received from those who had been employed among the Indians, and who had, therefore, an ample opportunity of judging of the policy of the proposed measure, he was inclined to the opinion that it was a bad one. He thought it impolitic to create further division of the Indian tribes by extending statutory discretion to the Executive of the United States. One of the greatest evils which now afflicts the Indian tribes, may be traced to the ambition, divisions, and dissensions, of petty chiefs, who claimed distinctions, presents, and power, from their respective tribes. Mr. B. stated that the more closely the Indians were brought together in their relations with the General Government the better: for the experience of those engaged in Indian affairs proves that consolidation is much more desirable than separation. The latter encouraged that ambitious spirit by which the Government was already too much

harassed; the disunion of small chiefs, forming separate bands to promote their own evil purposes. Each of these wished to be head of his little band; and this may be considered one of the greatest evils which the Indians and the Government had to contend with. Under these views he had come to the conclusion that it would be better to consolidate the Indians, than to pass a law by which they would be separated. The truth is, said Mr. B., a general complaint has long prevailed against our Indian agents. Instead of living with the tribe or nation for which they are appointed agents, they settle themselves in one of our frontier towns, at a great distance from many of these Indians who have to transact business with them. This evil, Mr. B. thought, would be increased by the proposed law; as it was not to be supposed that an agent could bestow as much attention to the business when the compensation is to be so reduced, as he would devote when receiving a more liberal salary. The President, under the operation of the law, will be constantly harassed with the broils of little chiefs and petty agents.

Mr. WHITE replied that he thought, with the Senator from Missouri, (Mr. BAXTON,) that the soundest policy would be to pursue that course which tended to concentrate the individuals belonging to the same tribe of Indians, in preference to permitting them to be divided in various bands; and he was inclined to think that the adoption of the measure before the Senate would produce a result contrary to that apprehended by the Senator from Missouri, (Mr. BAXTON,) who had last addressed the Senate. Under the present state of things, it might be the policy of individuals residing with the Indian tribes (consulting their own comforts) to encourage their division into distinct bands, as they would, in such case, be sure of finding an apology for residing with neither subdivisions of the tribe; while, on the other hand, if the bill should pass, they would find it their interest to prevent any separation of the tribe under their care; knowing that, if the President did divide the agency, he would divide, also, the emoluments attached to it. It was highly probable that, if the Indian agents themselves were consulted, a variety of opinions would be received from them in relation to the measure; some would believe it would produce much good, while others would be of a contrary opinion. Take, for instance, the case of the Chippewas, who were divided into three bands; one of which had, when necessary to transact its business with the Indian agent, to travel a considerable distance, and through the borders of the country of the Sioux, with whom they were frequently at war: a division of the agency, therefore, in this case at least, would tend to prevent collision, and perhaps bloodshed. Under all these circumstances, Mr. W. was of opinion that placing the power proposed by the bill in the hands of the President, would be the means, not only of providing

FEBRUARY, 1880.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

against disunion among the Indians themselves, but of making it the interest of the agents to use all the influence they might possess to discourage discord, and of taking away any excuse they might have for residing at a distance from the tribes placed under their superintendence. He (Mr. W.) had no personal intercourse, it was true, with those tribes which were to be affected by the bill; gentlemen who lived nearer doubtless possessed more information in relation to them than he did; but he had seen letters from several Indian agents, recommending the measure now under discussion, though the gentleman from Missouri might have received information of a contrary nature; and from these and other information which had been before the committee, he was perfectly satisfied with its expediency.

Mr. BAXTON observed that it was, perhaps, unnecessary for him to say any thing on the subject, after the explanation that had been given by the chairman of the Committee on Indian Affairs, (Mr. WHITE.) Mr. B. said that there was no doubt but agents would be opposed to the present arrangement; that they were opposed to living among the Indian tribes, and this was one of the greatest causes of jealousy and hatred. One band of the Osages separated from their nation on the last day of receiving the donation, charging the agent with partiality. Evils of a similar character were constantly occurring; besides, one tribe, in passing to and from the agency, comes in collision with another tribe, and thus irritations and quarrels were continued. He, Mr. B., knew of no plan by which these evils would be more effectually prevented than by the operation of the proposed measure. He observed that the bill does not authorize the President to divide the Indian tribes, but merely, when a division already exists, to appoint a separate agent. He thought that a division of salary corresponding with the division of labor would have a salutary tendency, both with regard to the Indians themselves, and the agents appointed to regulate their concerns.

The bill was then ordered to be engrossed, and read a third time—yeas 30, nays 9.

MONDAY, February 8.

*Mr. Foot's Resolution—Nullification.*

Mr. ROWAN said: The epithet of supremacy, which is so unceasingly applied to the court, is calculated to swell the volume of their power, in the minds of the unthinking. Its supremacy is entirely relative, and imports only that appellate and corrective jurisdiction which it may exercise over the subordinate courts of the General Government. The appellate court of every State is just as supreme as it is; and in the same way, and for the same reasons. It is not supreme in reference to the other departments of the Government; nor has it any supremacy in reference to the States; and yet the gentleman (Mr. WEBSTER) will have it that this

Supreme Court, which derives its title of supremacy from its control over the proceedings of inferior judicial tribunals, shall control and restrain the Supreme Courts of the States, and the States themselves. That the mere modicum of judicial power which they are permitted by the States to exercise, shall be exerted to control them in the exercise of their sovereign power.

Sir, I deny that it was the intention of the States, in the formation of the constitution, to invest that tribunal with the power of doing any political act whatever. The power accorded to that court was purely judicial, and was intended to be so. If it had been intended that they should exercise the political power, which is not asserted for them, its exercise would have been subjected to some checks, to some responsibility. It cannot be reasonably supposed that, after subjecting the exercise of political power by all the other functions of the Government, to judicious and well-devised checks, it was intended to subject all to the unchecked and irresponsible power of this court. But, upon this point, I have given my opinions in a previous part of my argument. I must, however, be permitted to say, that the judges, in the States, as well as in the General Government, even in reference to the exercise of their mere judicial powers, are left by the constitutions dangerously irresponsible. The independence of the Judiciary has, in my opinion, been greatly misconceived. Sir, the true independence of the judges consists in their dependence upon, and responsibility to, the people. The surest exemption from dependence upon any is independence upon all. In free governments, we have nothing more stable than the will of the people. To be independent of that, is to rebel against the principles of free government. It is a dependence upon, and a conscious responsibility to, the will of the people, that will best secure the judge from local, partial, and personal influences. But on what principle should those who administer the laws be less responsible to the people than those who make them? The laws operate as they are expounded, not as they are made. It is in the exposition of them that they operate oppressively; and all responsibility is to secure against oppression. But there can be no oppression, or scarcely any, without the consent of the judges. The judges are irresponsible, and the people are everywhere oppressed? But I hold it to be universally true that all power which may be irresponsibly exercised, will be exercised oppressively. It has always been so; it always will be so; for the judges are but men.

But to return to the judges of the Supreme Court. They are authorized "to take jurisdiction of all causes in law and equity, arising under the constitution, laws of Congress, and treaties made pursuant to it;" and that constitution, together with the treaties, and the laws of Congress made pursuant to it, are to be the "supreme law of the land." This is their power; and this the character and force of the consti-

tution, laws of Congress, and treaties. Now, suppose there shall exist, between two of the States, a dispute as to territorial boundary, and the Congress shall pass a law giving the disputed territory to one of the contending States; and suppose the judges shall affirm the validity of this law; must the State whose territory has been thus invaded and taken from it by Congress submit to the decision, or incur the guilt of rebellion? Is that to be the practical operation of the gentleman's doctrine? Or, suppose the territorial boundary of any one of the States shall be altered by treaty, and a portion of its territory transferred to a foreign power, and the Supreme Court were to decide that the treaty was constitutional, must the State thus dismembered acquiesce, or, by resisting, be denounced as a rebel? And would the gentleman assert that this operation was merely imposing a salutary restraint upon State sovereignty? Now, sir, I deny that the power to declare a law of Congress, or of any of the States, unconstitutional, was ever conferred, or intended to be conferred, upon the judiciary of any of the States, or of the General Government, as a direct substantive power. The exercise of this power is incidental to the exercise of the mere judicial power which was conferred. The validity of a law, involved by a case, may be incidentally decided, in deciding the law and justice of the case. But the decision must be made with an eye to the law and justice of the case, and not in reference to the just or unjust exercise of the legislative power which was exerted in making the law. Not in the view to check, control, or restrain the legislative power. It must be given in the exercise of merely a judicial, and not of political power.

Thus exercising its jurisdiction, the court would command the respect and confidence of the people as a judicial tribunal. But when it merges its appropriate judicial, in an assumed political character; when it exchanges its ermine for the woolsock and the mace, and asserts its right to impose restraints upon the sovereignty of the States, it should be treated as a usurper, and driven back by the States within its appropriate judicial sphere. It is due from the States to their own self-respect, and the just rights of their citizens, to assert that they are competent to decide upon every question involving their own sovereignty; and that, to neglect to maintain it, would be to renounce the character in which they formed the constitutional compact of union. That the maintenance of its own sovereignty unimpaired, by each of the States, is essential to the liberty of the people, and to the preservation of the Union, and that, to submit their sovereignty to the control of the Judiciary, would be to substitute a judicial oligarchy for the free institutions employed for self-government by the people.

All the purposes for which civil society was instituted would be defeated in the control of the States by the Judiciary. Nothing less than sovereign power is competent to the manage-

ment of the concerns of a State, and nothing less was pledged by the States, in the social compact, for the protection of the people. The State cannot redeem this pledge, if it shall be controlled by the Judiciary. The Judiciary will govern, and not the State: for that power that governs those who govern, governs those who are governed; and how can a State protect its citizens from oppression, if it is itself liable to be oppressed by their oppressor? So that a State is under a political necessity to vindicate its sovereignty from any salutary restraints which the Supreme Court may attempt to inflict upon it, by resistance, or whatever means it may.

For security against oppression from abroad, we look to the sovereign power of the United States, to be exerted according to the compact of union; for security against oppression from within, or domestic oppression, we look to the sovereign power of the State. Now, all sovereigns are equal: the sovereignty of the State is equal to that of the Union: for the sovereignty of each is but a moral person. That of the State and that of the Union are each a moral person, and in that respect precisely equal. In physical force, the latter greatly transcends the former; but, in essential sovereignty, they are not only naturally but necessarily equal: just as the sovereignty of the State of Delaware is equal to that of New York, or of Russia, though the physical power of those sovereignties are vastly different.

The unrestrained exercise of the sovereign power of the Union is necessary to all the purposes of the Union; and is it not as necessary that the sovereign power of the State should be unrestrained, as to all domestic purposes? and can any reason be assigned why the latter, more than the former, should be restrained by the Supreme Court? No reason can exist for the restraint of the one, that does not equally apply to the other. But, in truth, the idea of controlling a sovereign State is so inconceivable that I do not know in what terms to combat it.

I must be indulged in some further inquiries in relation to the unfitness of the judges of the Supreme Court for the exercise of this controlling power over the sovereignty of the States, which the Senator from Massachusetts has asserted for them. What is there belonging to that court which can, in the contemplation of sober reason, entitle it to the exercise of that transcendent and all-absorbing power? Are the judges peculiarly gifted, and exempt from the frailties incident to human nature? Are they, and will they always be, pure and infallible? Will they always be free from the influence of the selfish principle, against which all free States have so sedulously endeavored to guard in their constitutions? On the contrary, are they not, will they not always be, subject to those impulses of ambition, those prejudices and partialities, which are uniformly displayed by those who are at all concerned in the discussion or decision of political questions? I have no reference to the present incumbents; they

FEBRUARY, 1880.]

Mr. Foot's Resolution—Nullification.

[SENATE.]

are, some of them, talented, and all respectable men; they have my respect, and if they possessed the power of controlling sovereigns, they ought to be worshipped, because their likeness has never existed beneath the sun. But I would ask again, if any reasonable man can suppose that there is more safety to the rights of the Union, or of the States, in the wisdom and patriotism of the seven men who compose that court, than in the wisdom and patriotism of the million and a half of people who compose the State of New York, or even the fifty or sixty thousand who compose the little State of Delaware? Must the saying of the wise man be reversed in favor of that court? Is it no longer true that "there is safety in a multitude of counsel?"

Does the gentleman pretend to have discovered that the converse of the proposition is true? I am sure that he will prefer no such pretensions for it has been long the known belief of aristocrats, of monarchs, and of despots. With them, it has been, and always will be, a cherished truth, a truth sustained by their votaries, and enforced by themselves, at all times, and everywhere. The monarch who proclaimed that "there was safety in a multitude of counsel," did not himself act upon the principle which he avowed. This principle, so dear to republics, was asserted under the inspiration of that wisdom which distinguished the monarch of Judea from all other men, of that wisdom which is from above. May I not conclude, then, that no argument in favor of the power asserted for that court can justly be drawn from the paucity of its numbers? and that every argument which can be drawn from the number of the judges is against confiding to them a control over the States? Sir, if we refer to what may always be supposed to be the wisdom, purity, and patriotism of the judges of that court, we cannot suppose that there will ever be a time when even the smallest State in the Union will not have, engaged in administering its Government, a much greater number of men, any of whom will, in these respects, be the equals of the judges. They will not only be their equals in patriotism, intelligence, and integrity, but greatly their superiors in an intimate practical acquaintance with the condition of the people, their habits, manners, customs, wants, and enjoyments. And, in addition to these, there will always be in the State a great many citizens, as enlightened and as pure as either of the judges, or the State functionaries, whose vigilance will be employed in checking the officials, and restraining them within the sphere of their duty.

And, let me ask, if the enlightened functionaries of the State, and its enlightened citizens, will not always be as much interested in the correct administration of the Governments, General and State, in the happiness of the people, and in the perpetuity and prosperity of the Union, as those same judges can be supposed to be? By what reason, then, can it be supposed

the framers of the constitution were influenced to have accorded such power to the judges? It is not expressly given in the constitution: it is presumed to have been given by implication. But how can we obtain the power by implication from that instrument, unless we can reasonably suppose that those who framed it meant to confer it? But, when we consider that this court forms one department of the Government, which Government is supposed to have encroached upon the sovereignty of a State, can we believe that the States, in forming the constitution, intended to arm the court with the power of deciding upon the legitimacy of its own encroachments? with the power of conserving its own usurpations by its own decisions? A law of Congress, made in pursuance of the constitution, is admitted, on all sides, to be supreme, and will be acquiesced in and conformed to by the States. The question is, whether a law in violation of the constitution is supreme, or can be made so by the court? Whether a State cannot form an opinion as to its invalidity, and interpose its veto, where its operation goes to deprive the State of its sovereign power? I contend that neither weakness nor idiocy can be ascribed to a sovereign State; and, therefore, that a State may both think and act in the maintenance of its sovereignty.

Who ever before thought that one of the parties to a contest was a competent judge of the matter in dispute? For, although the General Government was no party to the constitutional compact of union—that having been formed by the States, who are the only parties to it—yet the Government, which was created by that compact, when it encroaches upon the sovereign power of a State, may justly be considered, *quoad* the dispute, as a party to the contest with the State, and, therefore, unfit to decide the matter in controversy. The case, it would seem to me, need but be stated to secure, with all intelligent men, the reprobation of the doctrine contended for on the part of the court. Even in a contest between school children, about their toys, or their amusements, neither will agree to let the other decide the matter in dispute. Sir, who does not perceive that the specification of the powers to be exercised by the General Government was entirely useless, if it was intended that those who were to exercise them were to be the exclusive and final judges of the extent and legitimacy of their exercise?

But the power asserted for the court, by the honorable Senator, is unreasonable in other views. If, then, those who formed the constitution had intended to invest this tribunal with the political power of checking and regulating the Legislative and Executive Departments of the General Government, and of imposing certain salutary restraints upon the sovereignties of the States, they would not only have expressed that intention, but would have adopted and suited the forms of the constitution to the full

and efficient exercise of that power. Have they done so? This question must be answered in the negative by all who have paid the slightest attention to the specification of the powers, allowed to be exercised by the General Government, and to the powers reserved to be exercised by the States. Let us suppose that the House of Representatives were to refuse to permit the members, or a portion of them, from a particular State, to take their seats in the legislative hall of Congress; and suppose the Senate were to do the like, in relation to the Senators from any one of the States; or that any one of the States, or even a majority of them, were to refuse to elect Senators to Congress, or that a State were to make a treaty with a foreign power, or were to coin money; or let us suppose, further, that a person charged in any one of the States with treason, felony, or other crime, were to flee to another, and that other were to refuse, upon the demand of the Executive authority of the State from which he fled, to deliver him up, to be removed for trial to the State having jurisdiction of the crime: by what forms of the constitution can the judicial power of the United States interfere in any of these cases, or in a hundred others which might be named? Sir, this mighty State-conserving power will be found, when subjected to the scrutiny of reason, to consist more in the fancy of those who are desirous to see one splendid central government supply the place of the sovereign States, than in the nature and genius of our Governments, or in the intention of the States in forming the constitutional compact of union. And the great error which lies at the root of this monstrous doctrine, is in the erroneous supposition that the States, when they formed the constitution, divested themselves of, and delegated to, the General Government, all the sovereign power which may be rightly-exercised by the latter, and that they are less sovereign by so much power as may be thus exercised. That this sovereign power, so delegated by the constitution, is mysteriously lodged in that instrument, and exercised by the General Government in virtue of that lodgment. Sir, let me just say that sovereign power is an article that will not keep cold. Others think that this power abides in the functionaries of the Government, and almost all believe, that, let it be lodged where it may, it is out of the States and belongs to the General Government. That those who formed the constitution cut the sovereignty of each State into two parts, and gave much the largest portion to the General Government. I hope that I have, in a previous part of my argument, sufficiently refuted those erroneous, and, as I think, mischievous notions, and proved that sovereignty cannot exist in a divided state; that its unity and its life are inseparable; and let me here add, that you might as well divide the human will; we can conceive of ten thousand diversities of its operation, but we cannot conceive of its separation into parts, neither can we con-

ceive of the separation of sovereignty. It is the will of civil society; which society is a person whose will, in all its modes of operation, like the will of a human being, cannot, without destroying the person, be divided or separated into parcels; for then it will be extinguished, not divided.

But, I may be asked, to what tribunal I would refer a question, involving the sovereign power of a State? I answer, most certainly not to the assailant of that power, not to the General Government, which shall have usurped it, and still less to the judicial department of that Government. And in my turn, I would ask to what tribunal should be referred an encroachment by the Supreme Court upon the sovereign power of a State; for that court can not only affirm an unconstitutional law, which assails the sovereignty of a State, but it can, by construction, (as we have in too many instances seen,) give an unconstitutional efficacy to a perfectly constitutional law. It can, as we have seen, usurp the exercise of legislative power, and under the denomination of rules of court, make laws under which the citizens of a State may be imprisoned contrary to law. Sir, the Congress have been obliged to interpose to prevent the exercise of this usurped power of the judges over the citizens of at least one of the States; I mean the State of Kentucky. And now, sir, the power of that State to legislate over its own soil, awaits upon the docket the decision of that tribunal.

But suppose the Congress, instead of restraining, as it did, the judges of that court, from incarcerating the citizens under color of their rules of court, and contrary to the laws of the State, had refused to interfere; to what tribunal must the State have appealed for the protection of her citizens against lawless incarceration? The honorable Senator would say, to the Supreme Court; to that very tribunal which had committed the outrage. I answer emphatically, no. The sovereign power of the State should have been exerted for the protection of its own citizens. It can and ought to refuse to the court the use of its prisons, for purposes so oppressive to its citizens, and subversive of its sovereign power. It ought to exert its own governmental machinery to the extent of all their aptitudes, and of its own power, to protect its own citizens against aggressions so lawless and so enormous.

In such a case, the State should appeal to its own sovereign power, and decide for itself. Indeed, in every case involving its sovereignty, it must do so, or renounce its sovereign character. Whether it shall exert its self-protecting power, through the organs of its government, or through a convention, or by what other means it may, will depend upon the character of the aggression. Every State must speak its will through one or the other of those mediums. It may use the former or employ the latter, according to its own opinion of their respective fitness for the urgency.

FEBRUARY, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

And what, you will ask me, will be the result of this resistance by a State, of an unconstitutional law of Congress, or an unconstitutional decision of the Supreme Court? I answer, that the first result will be, the preservation of the sovereignty of the State, and of the liberty of its citizens, at least for a time. The next result will be, that the attention of the people of the other States will be awakened to the aggression, and the Congress, or the Supreme Court, whichever shall have been the aggressor, will be driven back, into the sphere of its legitimacy, by the rebuking force of public opinion. Such was the result of the nullifying resolutions of the States of Virginia and Kentucky, in relation to the alien and sedition laws. And such was the rebuking effect of public opinion in relation to the famous compensation law.

But if these results should not follow, you ask me what next? Must the State forbear to resist the aggression upon her sovereignty, and submit to be shorn of it altogether? I answer, no, sir, no; that she must maintain her sovereignty by every means within her power. She is good for nothing, even worse than good for nothing, without it. This, you will tell me, must lead to civil war. To war between the General Government and the resisting State. I answer, not at all, unless the General Government shall choose to consecrate its usurpations by the blood of those it shall have attempted to oppress. And if the States shall be led, by apprehensions of that kind, to submit to encroachments upon their sovereignties, they will most certainly not remain sovereigns long. Fear is a bad counsellor, of even an individual; it should never be consulted by a sovereign State.

No, sir, it is in the power of Congress, instead of shedding the blood of the citizens, who assert the sovereignty of their State and resist its prostration, to refer the question to an infinitely more exalted tribunal than the Supreme Court. I mean to the States of this Union. They formed the constitution; they are fit judges of questions involving sovereignty, being themselves sovereigns. The fifth article of the constitution provides for the case. It reads thus: "The Congress, whenever two-thirds of both Houses shall deem it necessary to propose amendments to this constitution, &c., &c., which when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, (not of the people at large, but of the States,) shall be valid, to all intents and purposes, as a part of this constitution." Three-fourths of the States constitute the august tribunal to which Congress can refer the question. To this tribunal the State can have no objection, because it was created by the constitutional compact; because the power of amending the constitution was accorded to it in that compact.

I state the case thus: The powers which the States, in their constitutional compact, have

allowed the General Government to exercise, are special. The agents of the United States, in the exercise of those special powers, have, as one of the States alleges, transcended their specific limits, and infringed upon their sovereignty. The State resists the exercise of the power of which it complains, as unauthorized by any stipulation in the compact, and as incompatible with its own rights and duties as a sovereign. The agents, as functionaries of the General Government, say that the exercise of the obnoxious power is within their legitimate competency; but rather than be thought fastidiously nice, or perversely obstinate, modestly propose that the Supreme Court shall decide the matter. The State replies that it cannot, without violating every principle of congruity and self-respect, submit any question, in relation to its own sovereignty, to any portion of the subalterns of the States. That it is itself, in virtue of its sovereignty, the judge of its own rights, and bound as a sovereign to maintain them. That while a sovereign State cannot decently be supposed to violate the clear rights of the General Government, it cannot reasonably be required to surrender its own obvious rights to the assertion of dubious powers on the part of that Government. That the right of sovereignty in the State is clear and unquestionable. That the right, under the alleged authority of which its sovereignty has been assailed, if it exists at all, must exist in specific grant. That the denial of its legitimate existence by a sovereign State ought to induce the General Government either to abstain from exercising it, or to call upon the States to remove all doubt about its legitimacy, in an amendment to the constitution, by the concurrent vote of three-fourths of their number.

Let me urge that this reply of the State is very reasonable, infinitely more so than the proposition on the part of the General Government, to which it is made. For if the power in question does not exist in the constitution, and is believed to be necessary for any of the great objects of the Union, the States will, by an amendment to the constitution, accord its exercise to the General Government. Or if its existence in the constitution is dubious, they will, by an amendment couched in explicit terms, remove all doubt; and thus, sir, the Government will avoid the tumult, confusion, and, perhaps, bloodshed, which might be connected with any attempt on the part of the General Government to divest a State of its sovereignty, and subdue it by force into vassalage. This is the course which the General Government ought to take in a question between itself and a sovereign State, in relation to the sovereignty of the latter, and the legitimacy of the power exerted by itself, in derogation of that sovereignty.

I say that Congress should take this course—that Congress should make the appeal to the tribunal of the States, because it claims to exercise a special power, and reason requires that,

when the existence of the power, or the legitimacy of its exercise, is questioned by a sovereign State, it should be able to show its authority free from all doubt. It is upon rational principle that, in all Governments, courts of special and limited jurisdiction are required to accompany their acts with the authority by which they were done; and their doings, unless their power to act is clearly shown, are considered as lawless and void. Sir, this principle limits the exercise of all special powers, whether legislative, executive, or judicial. A common corporation, chartered by a State, must be able to show in its charter an explicit authority for whatever power it claims to exercise, and its acts are void, unless its power to do them is explicitly granted in its charter. If the power under which it claims to act be dubious, instead of persisting to act, it must obtain from the Legislature an amendment of its charter, or abandon its claim to the power of acting *quoad*. Now all the reasons which apply to the smallest corporation, in relation to its chartered powers, apply with equal, with increased force, to the Government of the United States, and to the constitution, its charter. It is a stupendous corporation, and becomes fearful in powers, when it claims for its judicial department the exclusive right of legalizing, by its decisions, the encroachments made by itself upon the sovereignty of the States. The constitution is its charter. Its powers are special and limited. To be safely exercised, they must be confined within the clear limits of the charter. If those limits may be transcended, all limitation was useless. If dubious powers may be exercised and enforced, then specification was useless. It is upon this principle that officers of Government, before they can do any official act, must exhibit their commissions—their authority. No man occupies a seat in this body, without having exhibited a clear title to it; and it might as reasonably be urged that he could take his seat by force, without exhibiting title, or upon a doubtful title, as that the General Government shall exert by force, a non-existing or dubious power. If a doubt had existed in the title of the honorable Senator to a seat in this body, he would have to go back and get his title so amended as to remove all doubt, before he could occupy his seat. So the Congress, in relation to the exercise of even a doubtful power, should go back to the States, and obtain, by an amendment of their title, a removal of all doubt as to its legitimacy.

But another reason why Congress, and not the injured and resisting State, should make the appeal to the tribunal of the States, is, that an appeal by the State would be as unavailing as it would be unwise. A majority of the States have passed the obnoxious and questionable law complained of by the State. The State therefore cannot make the appeal efficiently; the Congress can. The State cannot do more than she has done. She must only poise herself upon her sovereignty, and resist its prostration. The

Congress can do more. It can appeal to and obtain from the States an explicit decision of the question. And if it shall fail to make the appeal, and obtain the decision of that tribunal affirming its power, it shall decline all further attempts to exert it. But again, the State is acknowledged to be a sovereign, and its sovereignty is acknowledged to be necessary to the liberty of its citizens, and its own existence as a State. Its power is primitive, clear, and certain. That of the Government by which it is assailed is derivative and doubtful; can any reasonable man say that the former should yield to the latter, upon any other principle than that the latter is as abundant in force as it is deficient in right? Reason itself would say, that the natural state of things should remain unaltered, unless the authority for removing or altering them shall be full, clear, and legitimate.

Throughout this debate the States have been treated as restless, querulous, impatient, disorganizing beings. It seems to have been taken for granted that they are either too dull to comprehend the provisions of the constitution, or too unprincipled to observe and maintain them. That the zeal to maintain the Union and support the constitution, by which it was formed, is exclusively with the functionaries of the General Government, that the States feel none of it. Now, let us examine into this matter a little. All intelligent men act from motive. The States that formed the Union were composed of intelligent men. The motives which led to the formation of the constitution were, to promote the happiness, tranquillity, liberty, and security, of the people of the States. In furtherance of these great objects, the States agreed, in that instrument, to exert their sovereign power jointly, in making war, peace, and treaties, and levying money, and regulating commerce, &c. Their powers were to be exerted through the agency of the General Government. Now, can it be supposed that the motives which led to the formation of the Union have ceased to exist—have evaporated? That the people of the States are less inclined to be happy, tranquil, prosperous, secure, and free, now, than they were when the Union was formed? Or that their perceptions of its utility are less distinct and strong now, than its beneficial effects have been experienced, than they were then, when its beneficial effects were only anticipated? The States made the constitution, and formed a more perfect Union, under the conviction that it was needed. Have occurrences since that time been calculated to prove that their convictions of its utility and necessity were erroneous? Have they given any indications to that effect? I believe not. On the contrary, they have evinced, from the period of its formation, up till this very moment in which I am speaking, no sentiment in relation to any subject, so strongly as that of an affectionate regard for, and devotion to, the Union. Why then this inquietude about the



FEBRUARY, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

Union? Why is the gentleman inspired at this time with such a devotion to its consolidation? There was a time, during the late war, when some zeal on that subject was felt; but at that time, the reasons for it were apparent to all. For myself I regard it as the union of twenty-four sovereign States, and rely more upon their intelligence and zeal for its support and continuance, than I do upon the power of the Supreme Court, or the inordinate zeal of any given number of politicians. It is upon the people of the States, and not upon the politicians, that solid reliance is to be placed for the continuance and just operation of all our institutions. They will maintain and vindicate the Union, not for the purpose of imposing certain salutary restraints upon the sovereignty of the States, but for the high purposes and objects for which it was formed. Utility was the object for which it was formed; and while it subserves that purpose, it will be maintained. But when purposes of splendor and magnificence, of pageantry and parade, shall supersede those for which it was formed; whenever it shall be supposed that the sovereign States of which it is composed must be whipped by the patriotic functionaries of the General Government into the support of it; whenever its continuance shall be made to depend upon the power of the Supreme Court, exerted in subduing to its support the sovereign States; whenever the compact of Union shall be so construed as to give to the General Government the right of deciding upon the validity of its own encroachments upon the sovereignties of the States; and, let me add, whenever the States cease to maintain their sovereignty, and their own competency to maintain it against the encroachments of the General Government, then, indeed, will the duration of this Union become problematical.

We should never forget that the greatest good, when perverted, becomes the greatest evil. The Union, while it continues to be what it was when it was formed, and what it was intended it should continue to be, a Union of free, sovereign, and independent States, will be considered by the States as the greatest conceivable political good; and for the maintenance and support of which the people of the States would, when the occasion should demand it, pour out their blood like water. But, even in their high estimation of it, they do not hold it as the greatest good. There is one still better, still more precious, which they rate infinitely higher. It is their liberty; and for the people to be free, the States must be free; and no State can be free, the sovereignty of which is subject to the control of another—is subject to certain restraints, however salutary, imposed by the judicial department of another Government. But, I feel confident that, while ever the Union conduces to the maintenance of the freedom of the States, the people of the States will maintain it; and whenever it shall be made the instrument of tyranny and oppres-

sion, they will cast it off and form one more perfect. That is, if they retain the spirit of freedom: if they do not, it matters but little what kind of Government they have.

And, indeed, upon the doctrine of the honorable Senator, relative to the power of the Supreme Court over the sovereignty of the States, I cannot see what is to prevent a perfect consolidation of the Government, and consequent monarchy or despotism. We have now, if he is right, a fearful oligarchy. Nothing but the forbearance of that tribunal can save us; we are denied the right of saving ourselves. The States must yield obedience to their sovereign mandate; must doff their sovereignty at the nod of the judges. They cannot interpose their veto, but must submit to any salutary restraints which the judges may choose to inflict upon their sovereignties. Sir, the power of imperial Rome, in her proudest days, was not superior to that asserted by the gentleman for the Supreme Court, nor were the humblest of her provinces in a condition more abject than that of these States, according to his doctrine.

Now, sir, what is the condition of these States? They are not to resist encroachments upon their own sovereignty; resistance with them is crime. The Congress will not resist encroachments made by the Judiciary upon State sovereignty, because that encroachment is but a salutary restraint, and because the decision of the court may, and no doubt often will, be but an affirmation of encroachment by the legislative department of the General Government; so that, sooner or later, State rights will be named only to point a sarcasm, or to excite a smile of derision. Indeed a smile of that kind may even now be seen mantling upon the faces of some gentlemen when that subject is named. Sir, these rights are exercised by the States in relation to subjects within their own territorial limits, and in a manner so little imposing as to attract but little attention from without. The exercise of them is as obscure as it is beneficial. A State, in regulating its domiciliary concerns, exerts its sovereign power without its exterior trappings; without the usual lustre and imposing glare of national sovereignty. It never appears in court dress. It has no navy, no army, no diplomacy, no boundless revenue. In relation to all these subjects, the sovereign power of each is exercised jointly with that of the others. The General Government, through whose agency the sovereign power of the States jointly is exerted, in relation to all these subjects, without having any national characteristic, without being more than a mere fiduciary for the States, is surrounded with the splendors and the patronage of a nation. And there is reason to apprehend that there are many influenced by appearances, not less disposed to ascribe to it unqualified power, than some of its functionaries are to assume and exercise it.

But the whole argument of the gentleman has gone upon the predication that the States are



to be kept in order by coercion only. That, but for the controlling power of the Supreme Court, they would transcend their appropriate spheres, and usurp the powers assigned by the constitution to the General Government. Now, sir, in what instance, I would ask, has any State displayed such a disposition? What exertion of power, by any one of them, since the formation of the constitution, has been of that character? When did any one of the States attempt to make a treaty with a foreign power, or with any of the other States? Has any of them attempted to make war, to coin money, to regulate commerce, to grant letters of marque and reprisal, to erect a navy, to raise and support armies? or to do any other act, or exercise any of the great powers separately, which they had agreed in the constitution to exercise jointly? Has any State failed to send its proportion of members to the House of Representatives, or its two members to the Senate of the United States; or denied full faith and credit to the public acts, records, and judicial proceedings of the other States? No State has violated, or attempted to violate, the constitution, in any of these particulars. I mention them, because in no one of them could the Judiciary have interposed its restraining power, even if it were possessed by that department to the extent contended for. It could not, by the forms of the constitution, have reached any one of the cases, by any conceivable exertion of its power. What, then, restrained the States from violating the constitution, in any of the particulars which I have enumerated? If they are as prone to transcend the limits of their power as they are represented to be, one would think that, in the course of fifty years, some instance of violation must have occurred. No, sir; the security of the constitution from inroads upon it by the States, is to be found in that wisdom which is always associated with sovereignty. If the confluent will and the concentrated wisdom of the people who compose a State, is not to be confided in, on what else under Heaven, I ask, can confidence be placed? That will is necessarily pure, because it is the will of the people; not as people, but as citizens. It is the will of all in relation to each, and of no one in relation to himself specially; and there is not a man, or set of men, on earth, who, if they can be freed from selfish influences, will not act justly. Sir, that is the condition of the citizens of the States; their sentiments are all of that character; they are discolored in their operation by the selfish influences of the political fiduciaries through whose agency they take effect; and this discoloration, which is produced by the functionaries, is charged upon the citizens. It is the functionaries, then, and not the citizens, who are to be feared; and those of the General Government not less than those of the States; and with both, those are most to be feared who are least responsible to the citizens; and, therefore, the Judiciary is more to be dreaded than any other department. What motives, let me

repeat, can the States have, to weaken or destroy the Union? They formed it, and, after all, they have the power of maintaining or destroying it. It lives in the breath of their nostrils; in their intelligence; in their affections; and their conscious need of it. It was not formed by them under the coercive influence of the Supreme Court; it was the offspring of the unrestrained and unconstrained sovereignties of the States. Sir, the doctrine contended for is parricidal: it is for the destruction of the parent by its offspring: it is not the doctrine of Jefferson, or Madison, or Hamilton. But I am averse from quotation; a doctrine should be approved or reprobated, not because it has, or has not, the sanction of this or that distinguished man, but because it is intrinsically right or wrong. I am opposed to the government of living men, still more of the dead. Our Government should be that of laws, through the agency only of men. Every civil society, large enough to constitute and maintain itself as a State, should govern itself by its own will, through the medium of such devices as its wisdom shall select. It should act jointly with its associates, in reference to foreign objects, and separately in reference to its interior concerns; but it should maintain its sovereignty by all means, and at all hazards: for there is not, in the catalogue of evils, a single one so much to be deprecated by a State as the prostration of its sovereignty: it is the loss of their liberty, to the people who compose it.

Every policy which has a tendency to humiliate the States, either by force or seduction, should, in my opinion, be deprecated. It is a tendency towards the consolidation of the Government, and the slavery of the people. Revenue, for the same reasons, should not be unnecessarily accumulated in the public treasury. The money, not needed by the Government, should not be exacted from the people. It should be left in their pockets; there it increases the incentives to industry, and the facilities to reward it. When the treasury of a monarch overflows, his subjects bleed: for war is the game at which monarchs delight to play, when they have money to bet. When the revenues of a republic are redundant, speculation, fraud, and corruption nestle about the treasury. Among free governments, that is the best which promotes the happiness and protects the rights of the people, at the least expense. The people get their money by labor: whatever the Government takes of it, more than is necessary to pay the just expenses of its administration, is, to the extent of the excess, an infliction of slavery upon them. Revenue beyond the necessary expenses of this Government can only be necessary for purposes of consolidation not of the Union, but of the Government.

Every institution of man is purer at its commencement than at any after period of its history. There is in all human institutions a fatal proclivity to degeneracy: even the institutions

FEBRUARY, 1880.]

*Mr. Foot's Resolution.*

[SENATE.]

of our holy religion degenerate. Hence the people of every Government have their choice between reform and revolution. They must do the one, experience the other, or submit to vassalage. But even reform is derided now. No doctrines are well received that do not tend to centre all power in the General Government, and conduce to the annihilation of the sovereignty of the States, and the erection upon their ruins of a magnificent empire!

I am, with my whole heart, and in all its feelings, in favor of the Union; but it is the Union of the States, and not an indiscriminate union of the people. I would not, by construction, or otherwise, reduce the States to mere petty corporations, and make them subservient to a judicial oligarchy—to a great central power of any kind. I would have the Union to consist of the free, sovereign, and independent States, of which it was intended by the constitution to be composed; I would have the citizens of each to look to their State for the security and enjoyment of their rights and their liberty. The Union which I advocate is also represented by the stripes and the stars. Each stripe a State, and each star its sovereignty. I would not mingle the stripes or blot out a star for any earthly consideration; and I would have each star to brighten with its benign and unclouded light the whole sphere of State sovereignty; I would have them all to shine with confluent lustre throughout the legitimate sphere of the Union. The stripes should thus wave, and the stars thus shine, if my wishes were consulted, until even Time himself should be enfeebled with age.

[From Friday, Feb. 12th, to Wednesday, the 17th, (Saturday and Sunday excepted) the Senate was chiefly occupied in the consideration of Executive business.]

FRIDAY, February 19.

*Mr. Foot's Resolution.*

The Senate resumed the consideration of the resolution of Mr. Foot.

Mr. HOLMES addressed the Senate, as follows:

The Senator from Kentucky (Mr. ROWAN) has discussed the question of the ultimate tribunal which is to decide a controversy that involves the powers of the United States and a particular State. His notions in regard to the social and the political compact are too refined, sublimated, and anti-constitutional for me. I shall seize upon his inferences, and, in my old-fashioned and clumsy way, take up the *argumentum ab inconvenienti* and pursue his conclusions to their final results. I shall not stop to inquire whether some other tribunal than the Supreme Court might not have been devised more impartial and wise. Nor shall I insist that this Supreme Court may not have erred in extending the federal at the expense of the State rights. It is in the nature of man thus to err. And if any error has occurred in its

decisions on constitutional questions, I readily admit that these errors have not very frequently been in favor of "State rights," against the federal powers. But I cannot well perceive what other tribunal could have been invented which would have done better. That Congress, according to his suggestion, should have been this court of appellate jurisdiction in these cases, is to me a strange proposition. The small States would scarcely feel very safe in the hands of the popular branch; and how the judicial decision could be made, whether by a joint or a concurrent vote, he has not informed us.

It, however, is enough for me, that the constitution has vested the power here contended for, in express terms, in the Supreme Court. This constitution, and the laws made pursuant to its authority, are to be "the supreme law of the land, any constitution or law of a State to the contrary notwithstanding." A Supreme Court is established, having original jurisdiction in few cases, appellate jurisdiction in all others arising under the constitution and laws made pursuant thereto. The laws of the United States are made supreme, and those of the States subordinate; and the court is to be the final tribunal in deciding upon these supreme laws. Now to suppose that the laws of the Union are supreme, and those of the States are subordinate, and that the State courts, in their decisions upon them, are supreme, and those of the United States are subordinate, is an utter absurdity. The very statement of the proposition proves that it is perfectly ridiculous. Allow a State, in a controversy of this kind, to decide ultimately and definitely, and to carry its decision into full effect, and you are retranslated into the old confederation, if nothing worse. The principal and almost the only defect in that confederation was, that it was advisory or directory, but not coercive. This coercive power was almost all that was wanted. If we have not that, "all we have gained is naught but empty boast of old achievement, and despair of new."

But the Senator from Kentucky, as I understood him, takes another ground: that a sovereign State has no power to surrender any portion of its sovereignty. I confess, sir, that unless others very much misunderstood this word sovereignty, it is very much misunderstood by me. I had supposed that a sovereign was he who had a right to execute his own will without any legal restraint or control. This is absolute sovereignty, and in this sense scarcely a civilized nation on earth is absolutely sovereign, as there is no one which is not subject to the law of nations, either prescriptive or conventional.

Man, in a state of nature, is an absolute sovereign, being subject to no legal restraint, and having the right to execute his will in defiance of legal control. If then a State cannot renounce any portion of its sovereignty, neither can man; he cannot surrender any portion of

his natural rights for the better security of the rest. If he can surrender no portion of them, much less can he surrender the whole. And as subjugation must be by force or surrender, and as force may always be resisted by force, why may not the slave, having more bodily strength than his master, rise up against him and subdue him? Remember that these are not my premises. I only take his, and follow them out in all their results. I forbear to pursue this train in the argument lest I should disturb the terrific ghost of the "Missouri question," which has so much affected the nerves of the Senator from Missouri. Thus we see how dangerous it is to go back behind the constitutional enactments to unsettle what has been already settled. But, sir, it is inexpedient that I should discuss this subject farther. The Senator from Massachusetts (Mr. WEBSTER) has done it ample justice. It were vain for me to attempt to add any thing to what he has said. I do not aspire to do him even justice, much less to compliment him. But I will say that, in my view, his argument on this point is unanswered and unanswerable. It was on this question, between that gentleman and the Senator from South Carolina, that the Senator from Missouri introduced his chaste, elegant, and classic figure of the "kick-up-horse, and the monkey on his back." I did not really perceive its application. I suppose by the "kick-up-horse," he intended the Senator from Massachusetts, but who was his "monkey?" If this was intended as another salute, it was a little uncourteous, to say the least.

The Senator from Kentucky considers the question of internal improvement as settled, and he yields to the doctrine as *res judicata*; and so do I. And if so in that case, why not in this? If there is any one principle in our constitution that has more than another been settled by legislation, adjudication, and general acquiescence, it is this: that, in a conflict of power between the United States and a State, the final efficient tribunal is the Supreme Court. Virginia had pronounced the alien and sedition laws unconstitutional, and transmitted her resolutions to the Legislatures of other States. I will read you the answer of Massachusetts: "This Legislature are persuaded that the decision of all cases of law and equity arising under the Constitution of the United States, and the construction of all laws made in pursuance thereof, are exclusively vested by the people in the judicial courts of the United States; that the people in that solemn compact which is declared the supreme law of the land, have not constituted the State Legislatures the judges of the acts or measures of the Federal Government." At this time it will be remembered that Virginia was in a political minority and Massachusetts in a majority in the federal councils. After this when the scales had shifted, and the balance was the other way, it seems there was great excitement in Pennsylvania on the decision of the federal court in *Olmstead's*

case. So great was it that the militia were ordered out to resist the marshal, and they actually took the field, under a General Bright. But this mighty army levied no war; the marshal executed his precept, and the peace was not at all disturbed; and the Legislature of that State adopted the constitutional mode of redress for the supposed grievance. They proposed to amend the constitution and establish some other tribunal to determine such controversies, and transmitted their resolutions to the other States. Virginia was now in a political majority, and I will read you the unanimous opinion of her Senate on the subject. The committee who had the resolutions of Pennsylvania under consideration were "of opinion that a tribunal is already provided by the Constitution of the United States, viz: the Supreme Court, more eminently qualified, from their habits and duties, from the mode of their selection, and from the tenure of their offices, to decide the dispute aforesaid in an enlightened and impartial manner, than any other tribunal which could be created." The report gives the reasons for the opinion, and was unanimously accepted. Gentlemen will find it quoted in the case of *Cohens vs. Virginia*, 6 Wheaton, 358. The decisions of this tribunal have always been submitted to as the last resort in these questions, and I regret to hear its doctrines denounced at this day as damnable, and the court as a tyrannical "Star Chamber." But suppose a State to consider herself aggrieved in a case plain and palpable, there are three constitutional modes in which she can obtain redress: first, by the judiciary; second, by an appeal to the people at the polls and ballot-boxes; third, by calling upon the States to amend the constitution. Now suppose all these fail, and the grievance is, in the opinion of the State, as plain and palpable as ever, one of two courses must be pursued: our own decisions must be enforced, and the State coerced; or, adopting the opinion of a late Senator from North Carolina, (Mr. MACON,) if a State will not submit, let her go. Withdraw your power and protection, send home her Senators and Representatives, and let the State set up for itself, and, in a very short time, it will come back and supplicate you to receive it again.

And should either of the enterprising youths of the family of the West, the East, or the South, become discontented, and wish to leave his father's house, and ask for the portion which belongs to him, and we should deal it out to him and let him go, and he should take a journey into a far country, and there "waste his substance in riotous living," or some other way, (for waste it he surely would,) and there should be "a famine in the land, and he should begin to be in want," and to "feed upon husks," and "no one should give unto him," he would then "come to himself," and begin to reflect, (for adversity is an excellent school for reflection,) and would say, "how many hired servants in my father's house have bread

FEBRUARY, 1850.]

*Abolition of Duties, Taxes, &c.*

[SENATE.]

enough and to spare," (and here the analogy is very close, for many of our servants have enough and to spare,) "and I perish with hunger; I will arise and go to my father, acknowledge my guilt and folly, and that I am unworthy to be his son, and beg to be received as a servant;" and he should come: now, here too, "the father would see him while he was yet a great way off, have compassion on him, run out to meet him, fall upon his neck and kiss him, order a new robe to be put on him, and the fattened calf to be killed;" and we should all be merry together. So that, instead of the "blood and carnage" which the Senator from Missouri seems so willing to predict, I am inclined to believe the whole affair would be settled in this good-natured, affectionate family way. I regret to hear disunion and civil discord so often predicted or threatened with so much apparent exultation, and I respond to the Senator from Massachusetts, the Union—the Union, in the exercise of all its legitimate powers—the Union forever!

TUESDAY, February 28.

*Abolition of Duties, Taxes, &c.*

Mr. BENTON said he rose to ask the leave for which he gave notice on Friday last; and in doing so, he meant to avail himself of the parliamentary rule, seldom followed here, but familiar in the place from whence we drew our rules—the British Parliament—and strictly right and proper, when any thing new is to be proposed, to state the clauses, and make up an exposition of the principles of his bill before he submitted the formal motion for leave to bring it in. And, before I do this, (said Mr. B.) I will make a single remark, to justify myself for presuming to propose a bill upon a subject which is already reported upon, by the able and experienced Committee of Finance. My justification is, that the bill of that committee does not present the best mode of accomplishing its own object; that a better one can be devised; and being myself the first mover of the great plan of abolishing unnecessary duties, on the extinguishment of the public debt, it is a natural effect of the meditation which I have bestowed on the question, that something should have occurred to me, which has not presented itself to the minds of others. This seems to be the case. Several bills have been reported for the abolition of duties; one in this chamber; some in the other end of the House; and no one has presented the subject under my point of view. Good or bad, my plan is at least new, a bill of its own sort; a bill without precedent in the legislation of the country; and, bringing it forward, I discharge a duty to the Union, and to the public councils of which I am a member; and have no other wish but that the wisdom and patriotism of the Senate, from all that is presented, may select and prefer that which is best for the people of these States.

The title of my bill is adapted to its contents, and discloses its object as distinctly as the compendious nature of a title will admit. I will read it:

*The Title.*

"A bill to provide for the abolition of unnecessary duties; to relieve the people from sixteen millions of taxes; and to improve the condition of the agriculture, manufactures, commerce, and navigation of the United States."

The tenor of it is, not to abolish, but to provide for the abolition of the duties. This phraseology announces, that something in addition to the statute—some power in addition to that of the Legislature, is to be concerned in accomplishing the abolition. Then the duties for abolition are described as unnecessary ones; and under this idea is included the twofold conception, that they are useless, either for the protection of domestic industry, or for supplying the treasury with revenue. The relief of the people from sixteen millions of taxes is based upon the idea of an abolition of twelve millions of duties; the additional four millions being the merchant's profit upon the duty he advances; which profit the people pay as a part of the tax, though the Government never receives it. It is the merchant's compensation for advancing the duty, and is the same as his profit upon the goods. The improved condition of the four great branches of national industry as presented is the third object of the bill; and their relative importance, in my estimation, classes itself according to the order of my arrangement. Agriculture, as furnishing the means of subsistence to man, and as the foundation of every thing else, is put foremost; manufactures as preparing and fitting things for our use, stands second; commerce, as exchanging the superfluities of different countries, comes next; and navigation, as furnishing the chief means of carrying on commerce, closes the list of the four great branches of national industry. Though classed according to their respective importance, neither branch is disparaged. They are all great interests—all connected—all dependent upon each other—friends in their nature—for a long time friends in fact, under the operations of our Government; and only made enemies to each other, as they now are, by a course of legislation, which the approaching extinguishment of the public debt presents a fit opportunity for reforming and ameliorating. The title of my bill declares the intention of the bill to improve the condition of each of them. The abolition of sixteen millions of taxes would itself operate a great improvement in the condition of each; but the intention of the bill is not limited to that incidental and consequential improvement, great as it may be; it proposes a positive, direct, visible, tangible, and countable benefit to each; and this I shall prove and demonstrate, not in this brief illustration of the title of my bill, but at the proper places, in the course of the exami-

nation into its provisions and exposition of its principles.

I will now proceed with the bill, reading each section in its order; and making the remarks upon it which are necessary to explain its object and to illustrate its operation.

#### *The First Section.*

"That, for the term of ten years, from and after the first day of January, in the year 1832, or, as soon thereafter as may be agreed upon between the United States and any foreign power, the duties now payable on the importation of the following articles, or such of them as may be agreed upon, shall cease and determine, or be reduced, in favor of such countries as shall, by treaty, grant equivalent advantages to the agriculture, manufactures, commerce, and navigation of the United States, viz: coffee, cocoa, olives, olive oil, figs, raisins, prunes, almonds, currants, camphor, alum, opium, quicksilver, Spanish brown, copperas, tin and brass, in sheets and plates for manufacturers' use, black bottles and demijohns, silks, wines, linens, cambrics, lawns, Canton crapes, cashmere shawls, gauze, ribbons, straw mats, bolting cloths, thread and silk lace, bombazine and worsted stuff goods, spirits not made of grain, nor coming in competition with domestic spirits; on the following description of cotton goods not manufactured in the United States, viz: chintzes, muslins, cambrics, velvet cords, china and porcelain, and Brussels carpeting, Peruvian bark, chronometers, sextants, parts of watches, amber, pine apples, juniper berries and oil of juniper, Italian and French crapes, gall nuts, essence of bergamot and other essences, used as perfumes, madder, turtle shell, and ox horn tips.

"Also on woollen goods, not manufactured in the United States, and necessary in carrying on the Indian trade.

"Also, Indian gartering, vermilion, taffeta, ribbons, pocket looking-glasses, beads, Indian awls, brass inlaid knives, scarlet-milled caps, sturgeon twine."

This section contains the principle which I consider as new—that of abolishing duties by the joint act of the Legislative and Executive Departments. The idea of equivalents, which the section also presents, is not new, but has for its sanction high and venerated authority, of which I shall not fail to avail myself. That we ought to have equivalents for abolishing ten or twelve millions of duties on foreign merchandise, is most clear. Such an abolition will be an advantage to foreign powers, for which they ought to compensate us, by reducing duties to an equal amount upon our productions. This is what no law, or separate act of our own, can command. Amicable arrangements alone, with foreign powers, can effect it; and to free such arrangements from serious, perhaps insuperable difficulties, it would be necessary first to lay a foundation for them in an act of Congress. This is what my bill proposes to do. It proposes that Congress shall select the articles for abolition of duty, and then leave it to the Executive to extend the provisions of the act to such powers as will grant us equivalent advantages. The articles enumerated for abolition of duty are of kinds

not made in the United States, so that my bill presents no ground of alarm or uneasiness to any branch of domestic industry.

The acquisition of equivalents is a striking feature in the plan which I propose, and for that I have the authority of him whose opinions will never be invoked in vain, while republican principles have root in our soil. I speak of Mr. Jefferson, and of his report on the commerce and navigation of the United States, in the year '98, an extract from which I will read:

#### *The Extract.*

"Such being the restrictions on the commerce and navigation of the United States, the question is, in what way they may best be removed, modified, or counteracted?"

"As to commerce, two methods occur: 1. By friendly arrangements with the several nations with whom these restrictions exist: or, 2. By the separate act of our own legislatures, for counteracting their effects.

"There can be no doubt but that, of these two, friendly arrangements is the most eligible. Instead of embarrassing commerce under piles of regulating laws, duties, and prohibitions, could it be relieved from all its shackles, in all parts of the world—could every country be employed in producing that which nature has best fitted it to produce, and each be free to exchange with others mutual surpluses for mutual wants, the greatest mass possible would then be produced, of those things which contribute to human life and human happiness; the numbers of mankind would be increased, and their condition bettered.

"Would even a single nation begin with the United States this system of free commerce, it would be advisable to begin it with that nation; since it is one by one only that it can be extended to all. Where the circumstances of either party render it expedient to levy a revenue, by way of impost on commerce, its freedom might be modified in that particular, by mutual and equivalent measures, preserving it entire in all others.

"Some nations not yet ripe for free commerce, in all its extent, might be willing to mollify its restrictions and regulations for us, in proportion to the advantages which an intercourse with us might offer. Particularly they may concur with us in reciprocating the duties to be levied on each side, or in compensating any excess of duty, by equivalent advantages of another nature. Our commerce is certainly of a character to entitle it to favor in most countries. The commodities we offer are either necessities of life, or materials for manufacture, or convenient subjects of revenue; and we take in exchange either manufactures, when they have received the last finish of art and industry, or mere luxuries. Such customers may reasonably expect welcome and friendly treatment at every market—customers, too, whose demands, increasing with their wealth and population, must very shortly give full employment to the whole industry of any nation whatever, in any line of supply they may get into the habit of calling for from it.

"But, should any nation, contrary to our wishes, suppose it may better find its advantage by continuing its system of prohibitions, duties, and regulations, it behooves us to protect our citizens, their

FEBRUARY, 1880.]

*Abolition of Duties, Taxes, &c.*

[SENATE.]

commerce and navigation, by counter-prohibitions, duties, and regulations, also. Free commerce and navigation are not to be given in exchange for restrictions and vexations; nor are they likely to produce a relaxation of them."

The plan which I now propose adopts the idea of equivalents and retaliation to the whole extent recommended by Mr. Jefferson. It differs from his plan in two features: first, in the mode of proceeding, by founding the treaties abroad upon a legislative act at home; secondly, in combining protection with revenue, in selecting articles of exception to the system of free trade. This degree of protection he admitted himself, at a later period of his life. It corresponds with the recommendation of President Washington to Congress, in the year '90, and with that of our present Chief Magistrate, to ourselves, at the commencement of the present session of Congress. I will read them, to sustain and support the principles on which my bill is founded.

*President Washington, in 1790.*

"Our safety and interest require that we should promote such manufactures as tend to render us independent on others for essential, particularly for military supplies."

*President Jackson, in 1829.*

"It may be regretted that the complicated restrictions which now embarrass the intercourse of nations could not, by common consent, be abolished, and commerce allowed to flow in those channels to which individual enterprise—always its surest guide—might direct it. But we must ever expect selfish legislation in other nations; and are, therefore, compelled to adapt our own to their regulations, in the manner best calculated to avoid serious injury, and to harmonize the conflicting interests of our agriculture, our commerce, and our manufactures. \* \* \* The general rule to be applied in graduating the duties upon articles of foreign growth or manufacture is that which will place our own in fair competition with those of other countries; and the inducements to advance even a step beyond this point are controlling in regard to those articles which are of primary necessity in time of war."

These extracts from the Presidents Washington, Jefferson, and Jackson, cover all the principles which are contained in my bill; the mode of action, the means of putting them into operation, is the only part that is new and original. To this part I can see no objection but to its novelty: for it is free from all difficulty on the score of constitutionality or expediency, and combines the advantages of equivalents with those of retaliation: for, if any nation refuses to reciprocate an abolition or reduction of duties with us, our heavy duties remain in force against her, and she pays the penalty of her refusal in the loss of some essential branch of her trade with us.

I will not now stop to dilate upon the benefit which will result to every family from an abolition of duties which will enable them to

get all the articles enumerated in my bill for about one-third, or one-half less, than is now paid for them. Let any one read over the list of articles, and then look to the sum total which he now pays out annually for them, and from that sum deduct near fifty per cent., which is about the average of the duties and merchant's profit included, with which they now come charged to him. This deduction will be his saving under one branch of my plan—the abolition clause. To this must be added the gain under the clause to secure equivalents in foreign markets; and the two being added together, the saving in purchases at home being added to the gain in sales abroad, will give the true measure of the advantages which my plan presents.

Let us now see whether the agriculture and manufactures of the United States do not require better markets abroad than they possess at this time. What is the state of these markets? Let facts reply. England imposes a duty of three shillings sterling a pound upon our tobacco, which is ten times its value. She imposes duties equivalent to prohibition on our grain and provisions; and either totally excludes, or enormously taxes, every article, except cotton, that we send to her ports. In France, our tobacco is subject to a royal monopoly, which makes the king the sole purchaser, and subjects the seller to the necessity of taking the price which his agents will give. In Germany, our tobacco, and other articles, are heavily dutied, and liable to a transit duty, in addition, when they have to ascend the Rhine, or other rivers, to penetrate the interior. In the West Indies, which is our great provision market, our beef, pork, and flour, usually pay from eight to ten dollars a barrel; our bacon, from ten to twenty-five cents a pound; live hogs, eight dollars each; corn, corn meal, lumber, whiskey, fruit, vegetables, and every thing else, in proportion; the duties in the different islands, on an average, equaling or exceeding the value of the article in the United States. We export about forty-five millions of domestic productions, exclusive of manufactures, annually; and it may be safely assumed, that we have to pay near that sum in the shape of duties, for the privilege of selling these exports in foreign markets. So much for agriculture. Our manufactures are in the same condition. In many branches they have met the home demand, and are going abroad in search of foreign markets. They meet with vexatious restrictions, peremptory exclusions, or oppressive duties, wherever they go. The quantity already exported entitles them to national consideration, in the list of exports. Their aggregate value for 1828 was about five millions of dollars, comprising domestic cottons, to the amount of a million of dollars; soap and candles, to the value of nine hundred thousand dollars; boots, shoes, and saddlery, five hundred thousand dollars; hats, three hundred thousand dollars; cabinet, coach, and

SENATE.]

*Abolition of Duties, Taxes, &c.*

[FEBRUARY, 1890.]

other wooden work, six hundred thousand dollars; glass and iron, three hundred thousand dollars; and numerous smaller items. This large amount of manufactures pays their value, in some instances more, for the privilege of being sold abroad; and, what is worse, they are totally excluded from several countries from which we buy largely. Such restrictions and impositions are highly injurious to our manufactures; and it is incontestably true, the amount of exports prove it, that what most of them now need is, not more protection at home, but a better market abroad; and it is one of the objects of this bill to obtain such a market for them.

It appears to me, said Mr. B., to be a fair and practicable plan, combining the advantages of legislation and negotiation, and avoiding the objections to each. It consults the sense of the people, in leaving it to their representatives to say on what articles duties shall be abolished for their relief; on what they shall be retained for protection and revenue; it then secures the advantage of obtaining equivalents, by referring it to the Executive to extend the benefit of the abolition to such nations as shall reciprocate the favor. To such as will not reciprocate, it leaves every thing as it now stands. The success of this plan can hardly be doubted. It addresses itself to the two most powerful passions of the human heart—interest and fear; it applies itself to the strongest principles of human action—profit and loss. For, there is no nation with whom we trade, but will be benefited by the increased trade of her staple productions, which will result from a free trade in such productions; none that would not be crippled by the loss of such a trade, which loss would be the immediate effect of rejecting our system. Our position enables us to command the commercial system of the globe; to mould it to our own plan, for the benefit of the world and ourselves. The approaching extinction of the public debt puts it into our power to abolish twelve millions of duties, and to set free more than one-half of our entire commerce. We should not forego, nor lose the advantages of such a position. It occurs but seldom in the life of a nation, and once missed, is irretrievably gone, to the generation at least, that saw and neglected the golden opportunity. We have complained, and justly, of the burthens upon our exports in foreign countries; a part of our tariff system rests upon the principle of retaliation for the injury thus done us. Retaliation, heretofore, has been our only resource: but reciprocity of injuries is not the way to enrich nations any more than individuals. It is an "unprofitable contest," under every aspect. But the present conjuncture, payment of the public debt, in itself a rare and almost unprecedented occurrence in the history of nations, enables us to enlarge our system; to present a choice of alternatives: one fraught with good, the other charged with evil, to for-

sign nations. The participation, or exclusion, from forty millions of free trade, annually increasing, would not admit of a second thought, in the head of any nation with which we trade. To say nothing of her gains in the participation in such a commerce, what would be her loss in the exclusion from it? How would England, France, or Germany, bear the loss of their linen, silk, or wine trade, with the United States? How could Cuba, St. Domingo, or Brazil, bear the loss of their coffee trade with us? They could not bear it at all. Deep and essential injury, ruin of industry, seditions, and bloodshed, and the overthrow of administrations, would be the consequence of such loss. Yet such loss would be inevitable, (and not to the few nations, or in the articles only which I have mentioned, for I have put a few instances only by way of example,) but to every nation with whom we trade, that would not fall into our system, and throughout the whole list of essential articles to which our abolition extends. Our present heavy duties would continue in force against such nations; they would be abolished in favor of their rivals. We would say to them, in the language of Mr. Jefferson, free trade and navigation is not to be given in exchange for restrictions and vexations! But I feel entire confidence that it would not be necessary to use the language of menace or coercion. Amicable representations, addressed to their sense of self-interest, would be more agreeable, and not less effectual. The plan cannot fail! It is scarcely within the limits of possibility that it should fail! And if it did, what then? We have lost nothing. We remain as we were. Our present duties are still in force, and Congress can act upon them one or two years hence, in any way they please.

Here, then, is the peculiar recommendation to my plan, that, while it secures a chance, little short of absolute certainty, of procuring an abolition of twelve millions of duties upon our exports in foreign countries, in return for an abolition of twelve millions of duties upon imports from them, it exposes nothing to risk; the abolition of duty upon the foreign article here being contingent upon the acquisition of the equivalent advantage abroad.

I close this exposition of the principles of the first section of my bill with the single remark, that these treaties for the mutual abolition of duties should be for limited terms, say for seven or ten years, to give room for the modifications which time, and the varying pursuits of industry, may show to be necessary. Upon this idea, the bill is framed, and the period of ten years inserted by way of suggestion and exemplification of the plan. Another feature is too obvious to need a remark, that the time for the commencement of the abolition of duties is left to the Executive, who can accommodate it to the state of the revenue and the extinction of the public debt.

FEBRUARY, 1830.]

*Abolition of Duties, Taxes, &c.*

[SENATE]

*Second Section.*

"That, from and after the 31st day of December, in the year 1831, the duties now payable on the following articles, imported from countries with which the United States have no diplomatic relations, shall be reduced one-half; and, after the 31st of December, 1833, shall cease and determine entirely, to wit: teas, mace, cloves, cinnamon, nutmegs, cassia, ginger, ivory, Turkey carpets, Cashmere shawls."

This section presents an exception to the principle of the bill; it dispenses with the idea of obtaining equivalents in the enumerated articles. The exception is the effect of necessity; the articles excepted being desirable to us, and obtained from powers with whom we have no treaties. The exception is unavoidable, but it is not wholly disadvantageous. We shall get the articles for one-third and one-half less than we now pay for them; and if two or three millions of revenue should be suddenly wanted, they present the ready means of raising it. The abolition being by law alone, the duty may be laid again by law whenever needed.

*Third Section.*

"That, from and after the 31st day of December, in the year 1831, a duty of thirty-three and a third per cent. on the value, shall be levied on all furs and raw hides imported into the United States, from countries which shall not have secured their free admission by granting equivalent advantages to the like productions of the United States."

This section, to a superficial observer, may seem to militate against the plan of the bill; but the inconsistency is in appearance only. It harmonizes completely with the spirit of the bill. It provides for a future, eventual, and contingent duty, upon two articles now introduced, free of duty, to a great amount. The terms in which the section is drawn show that its object is to obtain equivalents for their future free importation; and the following table of their annual imports, for the last nine years, will show the great value of the argument which they will put into the hands of the Executive, in the negotiations to which the section may give rise.

*The Table.*

Years ending 30th Sept.	Value of Furs.	Raw Hides and Skins.	Total Value.
1821.....	224,198	892,580	1,116,778
1822.....	296,339	2,041,463	2,337,802
1823.....	273,083	2,084,082	2,357,170
1824.....	323,630	2,142,168	2,465,798
1825.....	347,163	2,921,863	3,269,021
1826.....	388,955	2,825,526	3,214,481
1827.....	347,347	1,480,349	1,827,696
1828.....	458,586	1,804,302	2,262,788
1829.....	880,633	2,251,809	2,532,442
	2,969,333	17,158,997	20,603,730

The aggregate exceeds twenty millions of dollars for the short period of the last nine years. And these free importations, so injurious to the fur trader, and the farmers who raise

cattle and want a market for their skins, are derived from countries who exclude, or heavily tax, our furs and raw hides, and the articles manufactured out of them. They come, chiefly, from the Southern republics and Great Britain. If such large importations are to continue free, let those who enjoy the benefit reciprocate the favor. Let them abolish duties on American furs and American hats. Let them abolish duties on our raw hides; and where the privilege of sending hides would not be beneficial to us, as in the Southern republics, let something else be substituted for the abolition; as distilled spirits, manufactures of leather, cotton, glass, wood, &c. If they do not reciprocate advantages, thus offered, the penalty of their own election falls upon them. They incur the consequence denounced by Mr. Jefferson in the patriotic declaration, that free trade is not to be given in exchange for restrictions and vexations.

Here, sir, I make a single remark to illustrate the neglect with which the West has been treated in the progress of the tariff policy. The West produces furs and raw hides; they are leading articles of Western industry; yet no protection has been extended to them; the protective policy has never reached them; the country has been filled with foreign hides and foreign furs, free of duty, while the furs and hides of the United States, and the articles manufactured from them, are met by prohibitions, or heavy duties, in all quarters of the globe.

*Fourth Section.*

"That, from and after the 31st day of December, in the year ———, the amount levied on foreign tonnage for 'light money,' shall cease and determine, in favor of the ships of such nations as shall grant the like, or an equivalent favor to the merchant ships of the United States."

The object of this section is to gain some little relief for our navigating interest in foreign ports. The amount now paid by foreigners for "light money," that is to say, as a tribute to our light-houses, is about fifteen thousand dollars per annum. Such a sum is no object to the treasury of the United States, yet it is something to our ship-owners, for whose benefit the abolition of this small tax is intended. Nominally, it is a relief to foreigners; in reality, to our own navigators. The foreigners cannot be relieved here until the corresponding relief is secured abroad; and, as our shipping is most numerous, we may gain much more than we relinquish.

*Fifth Section.*

"That, from and after the 31st day of December, in the year ———, the duties now payable on tonnage, passports, and clearances, and on the re-exportation of imported articles, shall cease and determine."

The amount of these little taxes and duties is about two hundred and fifty thousand dollars



per annum. The Treasury will have no occasion for that sum after the extinguishment of the public debt; and being left in the pockets of the ship-owners and merchants, will be felt as an advantage by them, and not missed as a loss by the Government.

#### *Sixth Section.*

"That, from and after the 31st day of December next, the duty now payable on the importation of alum salt, coarse or ground, shall cease and determine; and from and after the same day, all laws authorizing allowances to fishing vessels, and bounties on the exportation of pickled fish, shall be, and the same hereby are, repealed."

This section stands out as a clear exception to the peculiar policy of the bill—that of obtaining equivalents by treaty stipulation. The section proposes a speedy repeal of the duty on this description of salt, and by operation of law alone. The reasons for this exception are—*first*, in the prime necessity and universality of the use of the article; *secondly*, in the small object it would present for negotiation, the number of powers from which we get salt being above a dozen, which would render abolition by negotiation tedious and dilatory, and the amount of duty relinquished to each, too inconsiderable to affect her policy, while the aggregate to us is great; *thirdly*, in the necessity of repealing the fishing bounties and allowances, which are dependent upon the duty on this description of foreign salt, and must stand or fall with that duty.

I have now finished the exposition of the features and principles of my bill; but justice to my plan and to myself will not permit me to stop here. The plan is new; and whatever is new has the prejudices of time and age to encounter, and the fears of timidity and caution to overcome. Its novelty will excite many enemies; the reasons which I may give, and which are the fruit of much research and meditation, may satisfy some and convert them into friends.

It certainly presents the tariff question under a new point of view to the American people.

That question has heretofore rested upon two great principles:

#### 1. PROTECTION; 2. RETALIATION.

Under the first principle we sought a home supply of articles essential to our general independence, and to our safety in time of war.

Under the second principle we retaliate upon other nations the evils of their own policy in piling duties upon our productions.

It is not to be dissembled that the tariff policy, on both principles, has powerfully appealed to the sympathies and the patriotism of the American people, and while kept within reasonable limits had the general approbation of all quarters of the Union; North, South, West, and Centre. The tariff policy has been in force in these States forty years, and has only excited discontent within the last ten or fifteen years,

and since it has been pushed beyond its own principles. The results are, increased duties at home and abroad; imports burthened, and exports burthened—the candle lit at both ends.

Under the plan which I propose, the tariff question will present itself to the people in this point of view:

1. Protection to every essential branch of industry.
2. Retaliation, as an alternative, where equivalents are refused.
3. Reciprocity of benefits instead of reciprocity of injuries.
4. The abolition of twelve millions of duties, at home, on imports.
5. The abolition of an equal amount of duties, abroad, on exports.
6. Discrimination between the articles which a wise policy requires, or does not require, to be made at home, and between the nations which grant or refuse us equivalents.
7. Increased importations of gold and silver.
8. Increased value of the internal trade with Mexico.

The results of the new plan, according to this view of its advantages, would be overwhelming in its favor. Let us verify these results, and justify these views.

In the first place, under the protecting principle which it contains, duties will remain on foreign articles, rivals of our own industry, to the amount of about ten millions of dollars. The support of the Government will require this sum, and the raising of this sum will give protection to our domestic industry; it will give it as an incident to the collection of revenue, and to this there will be no objection in any part of the Union.

In the second place, we shall terminate the unprofitable contest which we are now carrying on with foreign nations—a contest in which the only question is, which shall do most harm to the commerce of the other—and substitute for it a beneficial rivalry in the walks of free trade, based upon the unfettered exchange of surplus productions, to the amount of forty millions at the start, to increase annually with the rapid growth and expansion of these young athletic States.

In the third place, the abolition of twelve millions of duties will be the repeal of sixteen millions of taxes, counting the merchant's profit at 33½ per cent.; and this repeal will be felt in every family in the purchase of its necessities, its comforts, and its luxuries. Linen for the person, the table, and the bed, would be one-third cheaper. Coffee would be seven cents cheaper in the pound; tea, one-third; wines and silks, one-third; and so of all the articles enumerated in the bill. Every family would save one-third, or upwards, of its annual store account; every State would retain, within its limits, its proportion of these sixteen millions; and all the shame and mischief of plotting and

FEBRUARY, 1830.]

*Abolition of Duties, Taxes, &c.*

[SENATE.]

combining, and wrangling, here, about the division of so much spoil, would be avoided.

In the fourth and fifth places, the principle of equivalents would gain an abolition of duties on our productions in foreign ports, equal to the abolition made here upon foreign productions. We would buy cheaper and sell higher. Instead of paying the value, and, in some instances, ten times the value of our products, for the privilege of selling them in a foreign market, we would get these foreign duties reduced to a reasonable amount. Our productions are chiefly dutied in foreign countries, not for protection, but for revenue; and the experience of all nations, and especially of Great Britain, proves that revenue is productive in proportion to its moderation and fairness; smuggling and non-consumption always disappointing the calculations of short-sighted cupidity in the imposition of enormous duties. But these will be arguments for our Ministers abroad, which they will handle with more ability than I can pretend to.

In the sixth place, the principle of discrimination which my plan, for the first time in the progress of the tariff policy, introduces and establishes, will admit of a salutary distinction in the selection of articles for protection, and in the application of retaliatory measures to impracticable nations. Thus far there has been no discrimination, either in articles at home or nations abroad, in our tariff policy. To protect articles which can, and ought to be, made at home, we have dutied, and that most heavily, not only the cherished article, but all others belonging to the same branch, though of kinds not made, nor necessary to be made, in the United States. Blankets and strouds for the Indian trade, fine cottons, alum salt—I mention a few articles by way of example—are evidences of this want of discrimination. Among nations, this want of discrimination has been equally palpable. Great Britain has been severe upon our tobacco, grain, and provisions; to retaliate upon her we have been severe, not only upon her productions, but upon the productions of France, Germany, and all the nations with whom we trade. This want of discrimination among nations may be the necessary effect of regulating our tariff by law alone. If so, the argument becomes still stronger in favor of my plan by law and negotiation combined, which admits of discrimination; which offers the same advantageous terms to all nations, and leaves retaliatory duties in force against those only which justly incur our resentment, by refusing to receive our productions upon the terms that we offer to receive theirs. To them I say, in the thrice-repeated language of the great Jefferson, "Free trade is not to be given in exchange for vexations and restrictions!"

Seventhly, in obtaining increased importations of gold and silver. The United States have no silver or gold mines, except those in my native State, (North Carolina.) They are

dependent upon foreign countries for their supply of these metals. To the amount of one or two millions they are obtained from the West Indies, and other neighboring countries, in return for domestic productions, chiefly provisions. But the main supply is obtained by the circuitous operation of sending our tobacco, cotton, and rice, to Europe, exchanging them for fine goods, and selling these goods in the southern republics. Our trade with Mexico is a complete illustration of this process. We obtained from her, in 1828—taking the last year to which the returns are made up and printed—four millions of dollars in gold and silver, and seven hundred thousand dollars' worth of other products; we exported to her about seven hundred thousand dollars' worth of our domestic products, just enough to balance hers, leaving the whole amount of gold and silver to have been acquired by other exchanges. What were these exchanges? They were the fine cloths and cassimeres, the linens, silks, cambrics, muslins, rich carpets, wines, and porcelain, which our cotton and tobacco had bought in Europe, and which were either carried direct to Mexico, or re-exported from this country under the system of drawbacks. This makes it clear, that whatever will facilitate the exchange of our cotton and tobacco for the fine goods of Europe, will enhance the importation of the precious metals into the United States; and nothing can facilitate this exchange so much as reductions of duty upon the articles which compose it. The cotton plantations and tobacco fields of the South and West are thus the gold and silver mines of the United States; and blind, stupid, and suicidal is the policy which would destroy these fields and plantations!

Eighthly, in promoting the internal trade with Mexico. This trade is carried on partly in domestic, partly in European goods. Its present returns are about a quarter of a million of dollars. So far as foreign goods enter into its amount, there is a loss to the trader of the whole amount of the duty paid; the want of custom-houses on the frontiers rendering the application of the drawback system difficult and objectionable. The abolition of duties on the foreign articles used in that trade, chiefly fine goods, would put the inland trader on a footing with the shipper from the seaport, and probably enhance the returns of the trade, in a brief period, from a quarter of a million, to one or two millions of dollars.

These are the results of my plan, verified as fully as established facts, fair inductions, and probabilities approaching to certainty, can verify any untried experiment. They are the results of free trade, qualified by the policy of protection and the necessities of revenue; two qualifications which, in my view, reduce themselves to one: for they are convertible propositions—the revenue resulting from the protection, and the protection from the revenue. Anti-tariff citizens can have no objection to it,

for they admit the protection which springs from a fair exercise of the revenue-raising power; the supporters of the tariff policy, and especially the real manufacturers—not the political ones—but the actual owners and workers, can have no objection to it, for it leaves them all their present protection, procures them better markets abroad, gives them comforts and necessities, as tea, coffee, &c., cheaper than they now get them, and facilitates the acquisition of the material to several branches of manufacture, as the umbrella, the hat, the lady's shoe, bonnet, &c., in which silk is an essential part; and which will be got one-third cheaper when the duty on that article is abolished.

This being the case, the "crowning mercy" of my plan would be the speedy death and burial of the tariff question, and, with its interment, a restoration of that harmony of the Union which all true patriots desire, and which the progress of this question has so greatly impaired.

The last section of my bill still remains to be considered. It is the one which proposes to abolish the duty upon alum salt, and to repeal the laws which authorize the fishing bounties and allowances.

To spare to any gentleman, said Mr. B., the supposed necessity of rehearsing to me a lecture upon the importance of the fisheries, I will premise that I have some acquaintance with the subject; that I know the fisheries to be valuable, for the food they produce, the commerce they create, the mariners they perfect, the employment they give to artisans in the building of vessels, and the consumption of wood, hemp, and iron. I also know that the fishermen applied for the bounties, at the commencement of our present form of Government, which the British give to their fisheries, and that it was denied them upon the report of the Secretary of State, (Mr. Jefferson;) and I have lately read the six dozen acts of Congress, general and particular, passed in the last forty years, from 1789 to 1829, inclusive, giving the bounties and allowances, which it is my present purpose to abolish, with the duty on alum salt, which is the foundation upon which all this superstructure of legislative enactments has been reared.

I say the salt tax, and especially the tax on alum salt, which is the kind required for the fisheries, is the foundation of all these bounties and allowances; and that, as they grew up together, it is fair and regular that they should sink and fall together.

To prove this, let the laws speak.

#### *The Laws.*

1. Act of Congress, 1789, grants five cents a barrel on pickled fish, and salted provisions, and five cents a quintal on dried fish, exported from the United States, in lieu of a drawback of the duties imposed on the importation of the salt used in curing such fish and provisions.

N. B. Duty on salt, at that time, six cents a bushel.

2. Act of 1790 increases the bounty in lieu of drawback to ten cents a barrel on pickled fish and salted provisions, and ten cents a quintal on dried fish. The duty on salt being then raised to twelve cents a bushel.

3. Act of 1792 repeals the bounty in lieu of drawback on dried fish, and in lieu of that, and as a commutation and equivalent therefor, authorizes an allowance to be paid to vessels in the cod fishery (dried fish) at the rate of one dollar and fifty cents a ton on vessels of twenty to thirty tons; two dollars and fifty cents on tonnage of vessels above thirty tons; with a limitation of one hundred and seventy dollars for the highest allowance to any vessel.

4. A supplementary act, of the same year, adds twenty per cent. to each head of these allowances.

5. Act of 1797 increases the bounty on salted provisions to eighteen cents a barrel; on pickled fish to twenty-two cents a barrel; and adds thirty-three and a third per cent. to the allowance in favor of the cod fishing vessels. Duty on salt, at the same time, being raised to twenty cents a bushel.

6. Act of 1799 increases the bounty on pickled fish to thirty cents a barrel, on salted provisions to twenty-five.

7. Act of 1800 continues all previous acts (for bounties and allowances) for ten years, and makes this proviso: That these allowances shall not be understood to be continued for a longer time than the correspondent duties on salt, respectively, for which the said additional allowances were granted, shall be payable.

8. Act of 1807 repeals all laws laying a duty on imported salt, and for paying bounties on the exportation of pickled fish and salted provisions, and making allowances to fishing vessels—Mr. Jefferson being then President.

9. Act of 1818 gives a bounty of twenty cents a barrel on pickled fish exported, and allows to the cod fishing vessels at the rate of two dollars and forty cents the ton for vessels between twenty and thirty tons, four dollars a ton for vessels above thirty, with a limitation of two hundred and seventy-two dollars for the highest allowance; and a proviso, that no bounty or allowance should be paid unless it was proved to the satisfaction of the collector that the fish was wholly cured with foreign salt, and the duty on it secured or paid. The salt duty, at the rate of twenty cents a bushel, was revived as a war tax, at the same time. Bounties on salted provisions were omitted.

10. Act of 1816 continued the act of 1818 in force, which, being for the war only, would otherwise have expired.

11. Act of 1819 increases the allowance to vessels in the cod fishery to three dollars and fifty cents a ton on vessels from five to thirty; to four dollars a ton on vessels above thirty tons; with a limitation of three hundred and sixty dollars for the maximum allowance.

FEBRUARY, 1830.]

*Abolition of Duties, Taxes, &c.*

[SENATE.]

12. Act of 1828 authorizes the mackerel fishing vessels to take out licenses like the cod fishing vessels, under which it is reported by the vigilant Secretary of the Treasury, that money is illegally drawn by the mackerel vessels—the newspapers say to the amount of thirty to fifty thousand dollars per annum.

These recitals of legislative enactments are sufficient to prove that the fishing bounties and allowances are bottomed upon the salt duty, and must stand or fall with that duty. I will now give my reasons for proposing to abolish the duty on alum salt, and will do it in the simplest form of narrative statement; the reasons themselves being of a nature too weighty and obvious to need, or even to admit, of coloring or exaggeration from arts of speech.

1. Because it is an article of indispensable necessity in the provision trade of the United States. No beef or pork for the army or navy, or for consumption in the South, or for exportation abroad, can be put up except in this kind of salt. If put up in common salt, it is rejected absolutely by the commissaries of the army and navy, and if taken to the South must be repacked in alum salt, at an expense of one dollar and twelve and a half cents a barrel, before it is exported, or sold for domestic consumption. The quantity of provisions which require this salt, and must have it, is prodigious, and annually increasing. The exports of 1828 were, of beef, sixty thousand barrels, of pork, fifty-four thousand barrels, of bacon, one million nine hundred thousand pounds weight, butter and cheese, two million pounds weight. The value of these articles was two millions and a quarter of dollars. To this amount must be added the supply for the army and navy, and all that was sent to the South for home consumption, every pound of which had to be cured in this kind of salt, for common salt will not cure it. The Western country is the great producer of provisions; and there is scarcely a farmer in the whole extent of that vast region whose interest does not require a prompt repeal of the duty on this description of salt.

2. Because no salt of this kind is made in the United States, nor any rival to it, or substitute for it. It is a foreign importation, brought from various islands in the West Indies, belonging to England, France, Spain, and Denmark; and from Lisbon, St. Ubes, Gibraltar, the Bay of Biscay, and Liverpool. The principles of the protecting system do not extend to it: for no quantity of protection can produce a home supply. The present duty, which is far beyond the rational limit of protection, has been in force near thirty years, and has not produced a pound. We are still thrown exclusively upon the foreign supply. The principles of the protecting system can only apply to common salt, the product of which is considerable in the United States; and upon that kind, the present duty is proposed to be left in full force.

3. Because the duty is enormous, and quad-

ruples the price of the salt to the farmer. The original value of salt is about fifteen cents the measured bushel of eighty-four pounds. But the tariff substitutes weight for measure, and fixes that weight at fifty-six pounds, instead of eighty-four. Upon that fifty-six pounds, a duty of twenty cents is laid. Upon this duty, the retail merchant has his profit of eight or ten cents, and then reduces his bushel from fifty-six to fifty pounds. The consequence of all these operations is, that the farmer pays about three times as much for a weighed bushel of fifty pounds, as he would have paid for a measured bushel of eighty-four pounds, if this duty had never been imposed.

4. Because the duty is unequal in its operation, and falls heavily on some parts of the community, and produces profit to others. It is a heavy tax on the farmers of the West, who export provisions; and no tax at all, but rather a source of profit, to that branch of the fisheries to which the allowances of the vessels apply. Exporters of provisions have the same claim to these allowances that exporters of fish have. Both claims rest upon the same principle, and upon the principle of all drawbacks, that of refunding the duty paid on the imported salt, which is re-exported on salted fish and provisions. The same principle covers the beef and pork of the farmer which covers the fish of the fisherman; and such was the law, as I have shown, for the first eighteen years that these bounties and allowances were authorized. Fish and provisions fared alike from 1789 to 1807. Bounties and allowances began upon them together, and fell together, on the repeal of the salt tax, in the second term of Mr. Jefferson's administration. At the renewal of the salt tax, in 1813, at the commencement of the late war, they parted company, and the law, in the exact sense of the proverb, has made fish of one and flesh of the other ever since. The fishing interest is now drawing about two hundred and fifty thousand dollars annually from the Treasury; the provision raisers draw not a cent, while they export more than double as much, and ought, upon the same principle, to draw more than double as much money from the Treasury.

5. Because it is the means of drawing an undue amount of money from the public Treasury, under the idea of an equivalent for the drawback of duty on the salts used in the curing of fish. The amount of money actually drawn in that way is about four millions seven hundred and fifty thousand dollars, and is now going on at the rate of two hundred and fifty thousand dollars per annum, and constantly augmenting. That this amount is more than the legal idea recognizes, or contemplates, is proved in various ways. 1. By comparing the quantity of salt supposed to have been used, with the quantity of fish known to have been exported, within a given year. This test, for the year 1828, would exhibit about seventy millions of pounds weight of salt on about forty millions

of pounds weight of fish. This would suppose about a pound and three-quarters of salt upon each pound of fish. 2. By comparing the value of the salt supposed to have been used, with the value of the fish known to have been exported. This test would give two hundred and forty-eight thousand dollars for the salt duty on about one million of dollars' worth of fish; making the duty one-fourth of its value. On this basis, the amount of the duty on the salt used on exported provisions would be near six hundred thousand dollars. 8. By comparing the increasing allowances for salt with the decreasing exportation of fish. This test, for two given periods, the rate of allowance being the same, would produce this result: In the year 1820, three hundred and twenty-one thousand four hundred and nineteen quintals of dried fish exported, and one hundred and ninety-eight thousand seven hundred and twenty-four dollars paid for the commutation of the salt drawback: 1828, two hundred and sixty-five thousand two hundred and seventeen quintals of dried fish exported, and two hundred and thirty-nine thousand one hundred and forty-five dollars paid for the commutation. These comparisons establish the fact that money is unlawfully drawn from the Treasury by means of these fishing allowances, bottomed on the salt duty, and that fact is expressly stated by the Secretary of the Treasury, (Mr. Ingham,) in his report upon the finances, at the commencement of the present session of Congress. [See page 8 of the report.]

6. Because it has become a practical violation of one of the most equitable clauses in the Constitution of the United States—the clause which declares that duties, taxes, and excises, shall be uniform throughout the Union. There is no uniformity in the operation of this tax. Far from it. It empties the pockets of some, and fills the pockets of others. It returns to some five times as much as they pay, and to others it returns not a cent. It gives to the fishing interest two hundred and fifty thousand dollars per annum, and not a cent to the farming interest, which, upon the same principle, would be entitled to six hundred thousand dollars per annum.

7. Because this duty now rests upon a false basis—a basis which makes it the interest of one part of the Union to keep it up, while it is the interest of other parts to get rid of it. It is the interest of the West to abolish this duty; it is the interest of the Northeast to perpetuate it. The former loses money by it; the latter makes money by it; and a tax that becomes a money-making business is a solecism of the highest order of absurdity. Yet such is the fact. The Treasury records prove it, and it will afford the Northeast a brilliant opportunity to manifest their disinterested affection to the West, by giving up their own profit in this tax, to relieve the West from the burthen it imposes upon her.

8. Because the repeal of the duty will not

materially diminish the revenue, nor delay the extinguishment of the public debt. It is a tax carrying money out of the Treasury, as well as bringing it in. The issue is two hundred and fifty thousand dollars, perhaps the full amount which accrues on the kind of salt to which the abolition extends. The duty, and the fishing allowances bottomed upon it, falling together as they did when Mr. Jefferson was President, would probably leave the amount of revenue unaffected.

9. Because it belongs to an unhappy period in the history of our Government, and came to us, in its present magnitude, in company with an odious and repudiated set of measures. The maximum of twenty cents a bushel on salt was fixed in the year '98, and was the fruit of the same system which produced the alien and sedition laws, the eight per cent. loans, the stamp act, the black cockade, and the standing army in time of peace. It was one of the contrivances of that disastrous period for extorting money from the people, for the support of that strong and splendid Government which was then the cherished vision of so many exalted heads. The reforming hand of Jefferson overthrew it, and all the superstructure of fishing allowances which was erected upon it. The exigencies of the late war caused it to be revived, for the term of the war, and the interest of some, and the neglect of others, have permitted it to continue ever since. It is now our duty to sink it a second time. We profess to be disciples of the Jeffersonian school; let us act up to our profession, and complete the task which our master set us.

This concludes what I have to say on the present occasion. I flatter myself that I have vindicated the title of my bill; that I have shown it to be a bill to provide for the abolition of unnecessary duties; to relieve the people from sixteen millions of taxes; and to improve the condition of the agriculture, manufactures, commerce, and navigation, of the United States. I now submit my motion, in form, for leave to bring it in.

[The leave was thereupon granted, and the bill read the first time.]

WEDNESDAY, February 24.

*Mr. Foot's Resolution—Nullification.*

MR. WOODBURY said: The alien and sedition laws soon after brought the hostile parties to a crisis; and then the strong reasoning of Mr. Madison, in the Virginia resolutions of 1798, and the acute mind of Mr. Jefferson, in those of Kentucky, and the whole influence of their democratic coadjutors throughout the Union, were concentrated against those alarming doctrines, and their fatal, practical consequences. One of the Virginia resolutions was in these words: (Virg. Res. p. 4.)

"That this Assembly doth explicitly and peremptorily declare, that it views the powers of the Federal Government, as resulting from the compact to

FEBRUARY, 1880.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact, as no farther valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States who are parties thereto have the right, and are in duty bound, to interpose for arresting the progress of the evil, and for maintaining within their respective limits, the authorities, rights, and liberties, appertaining to them."

Another resolution is in these words: (Virg. Res. p. 9.)

"That the General Assembly doth also express its deep regret that a spirit has, in sundry instances, been manifested by the Federal Government to enlarge its power, by the forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases, which, having been copied from the very limited grant of powers in the former articles of confederation, were the less liable to be misconstrued, so as to destroy the meaning and effect of the particular enumeration, which necessarily explains and limits the general phrases, and so as to consolidate the States by degrees into one sovereignty; the obvious tendency and inevitable result of which would be, to transform the present republican system of the United States into an absolute, or, at best, a mixed monarchy."

Mr. Jefferson, in his letters, has followed up the same ideas, and never parted, till he parted with life itself, from this democratic view of the constitutional compact.

"You will have learned that an act for internal improvement, after passing both Houses, was negatived by the President. The act was founded, avowedly, on the principle that the phrase in the constitution, which authorizes Congress 'to lay taxes, to pay debts, and provide for the general welfare,' was an extension of the powers specifically enumerated to whatever would promote the general welfare; and this, you know, was the federal doctrine. Whereas, our tenet ever was, (and indeed it is almost the only landmark which now divides the federalists from the republicans,) that Congress had not unlimited powers to provide for the general welfare, but were restrained to those specifically enumerated; and that, as it was never meant they should provide for that welfare but by the exercise of the enumerated powers, so it could not have been meant they should raise money for purposes which the enumeration did not place under their action; consequently, that the specification of powers is a limitation of the purposes for which they may raise money."—4 Jeff. Works, 306.

The Virginia Resolutions, p. 13, say further:

"Whether the exposition of the general phrases here combated, would not, by degrees, consolidate the States into one sovereignty, is a question concerning which the committee can perceive little room for difference of opinion. To consolidate the States into one sovereignty, nothing more can be wanted than to supersede their respective sovereignties in the cases reserved to them, by extending the sovereignty of the United States to all cases of the 'general welfare,' that is to say, to 'all cases whatever.'"

Who is so blind as not to see, in the approaching condition of our Government, on the extinguishment of the national debt, and with our present enormous duties retained, creating a vast surplus revenue of ten or fifteen millions of dollars; who does not see a cause of new and most fearful apprehension to the States, if all that surplus, as well as all the public lands, can, and shall be employed under the General Government, in objects that Government may think conducive to the "common good," or "general welfare?" Who does not see a door opened to favoritism and corruption, which may let in irretrievable ruin to sound political justice and equality, and overwhelm every vestige of State independence? Who does not see—I care not by whose hands administered—I say the same in a majority as when in a minority—I say the same under this as under the last administration—who does not see a power never contemplated at the formation of the constitution, and which can never be exercised under our present political system, without tainting to the core, both those who exercise and those who feel it? Do I say this because hostile to internal improvements? No! But because hostile to the degeneracy, if not the ruin of our confederacy; and because I would advance internal improvements at the expense of the States and individuals, and not at the expense of the Union. I would do it the only way they ever can be advanced, with safety and usefulness—according to the resolution of New Hampshire, before read; and in those cases only in which individuals and States can see their private and local interest to be so much promoted by these improvements, as to warrant the undertakings by themselves.

Has it then come to this, under such a Government, that one of the parties cannot, in any way, interpose and correct its ruinous tendencies, and its insidious constructions, when the great exigencies of the country demand it? I think there has been more apparent than real difference on this point, in the present debate. Most must admit that they can interfere in some way; so said the fathers of democracy in '98; so said the Virginia and Kentucky resolutions; and so do those say whom I represent. They can interpose in various ways. My theory on this subject may vary more in form than substance from other gentlemen's, but, as each speaks for himself on this floor, I may be permitted to state briefly it is this: that the parties to the constitution are the agents of the people and the States, placed in the General Government on the one hand, and the agents of the people placed in their State Governments on the other hand; and that the people separated from their agents, are only the great primary power and foundation of the whole, never acting as one whole upon or about the constitution, either legislatively, executive, or judicially; but acting on it, in those forms, or any others, only by their agents in the States and in the General Government. But the peo-

ple themselves are still a power behind the throne greater than the throne itself; and, entrench yourselves as you may, to the teeth, in parchments and constructions, they, by their agents, in convention in the States, can abolish every institution, political or civil, of the Union or of the respective States.

The parties, then, in collision as to the extent of the powers given by the constitution of the Union, are seldom the people with their agents of either class, and never so any length of time without a sufficient redress; but the opposing parties are generally, on the one hand, the agents of the people and the States, under that constitution, and on the other hand, their agents under the State constitutions. I say the agents of the people and States in the General Government, as the States are technically represented here, in the Senate, and may always technically and solely choose all the electors of the executive branch. The former, acting in the administration of the General Government, causes the former, properly enough in common parlance, to be called the General Government, and the latter the States. The people, as such, unless in a revolutionary condition, cannot cast a single vote, hold a single town meeting, or lay out a road of ordinary highway, except through State power and State agency. I shall not repeat what reasoning and illustration the gentleman from Kentucky (Mr. ROWAN) and South Carolina (Mr. HAYNE) have adduced, in proof of these views, but merely cite a clause, in the Virginia resolutions of '98, to show, that these views, whether right or wrong, were the views of the fathers of the democratic party, and if I err, I err with the Platos and Socrates of my political faith. (Virg. Res. p. 8.)

"The other position involved in this branch of the resolution, namely, 'that the States are not parties to the constitution or compact,' is, in the judgment of the committee, equally free from objection. It is indeed true that the term 'States' is sometimes used in a vague sense, and sometimes in different senses, according to the subject to which it is applied. Thus it sometimes means the separate sections occupied by the political societies within each; sometimes the particular governments established by those societies; sometimes those societies as organized into those particular governments; and lastly, it means the people composing those political societies in their highest political sovereign capacity. Although it might be wished that the perfection of language admitted less diversity in the signification of the same words, yet little inconvenience is produced by it, where the true sense can be collected with certainty from the different applications. In the present instance, whatever different constructions of the term 'States,' in the resolution, may have been entertained, all will at least concur in that last mentioned; because in that sense the constitution was submitted to the 'States;' in that sense the 'States' ratified it; and in that sense of the term 'States' they are consequently parties to the compact from which the powers of the Federal Government result."

The States, then, being one party, is it to be

contended that still the other party, the General Government, may adopt any extended construction of the powers granted under the constitution, without any efficient right on the part of the States to murmur, remonstrate, alter, or resist? Certainly not, I should think, on either side of the debate. But how far can they go, and "where shall their proud waves be staid?" The opinion of the Supreme Court of the United States, a tribunal appointed, organized, and accountable only to one party to the Government, and one party to the decision, is urged on us to be the great final balance wheel of the whole machinery. But if the States be another party to the compact, it is manifest that, on ordinary principles of compact, they have the same right as the opposite party, or its agents, to decide on the extent of the compact. This is conceded between two parties, in the case of treaties, and in the case of ordinary bargains and conventions; and it cannot be denied here, admitting we have shown the States to be one party, unless both the parties have expressly agreed upon some tribunal intermediate, as an umpire, or judge, to decide irrevocably, this kind of differences between the parties to the constitution. On the other hand, I understand it to be argued, that the Supreme Court has been agreed on as such a tribunal. But, the Supreme Court of the United States would not be likely to be so agreed on, reasoning *a priori*, because its members are all appointed by, and answerable to, only one of the parties, and indeed go to form a portion of one of the parties, being mere agents of the General Government. The amendments of the constitution, reserving rights and powers to the States or people, would be nugatory—a mere mockery, if the suicidal grant was made to the Supreme Court, to the mere agents of one party, to decide finally and forever on the extent of all their own powers. The reasoning for this grant, therefore, seems to me *argumentum ad absurdum*, as clear as any axiom in Euclid. But on this head I am anxious not to be misapprehended, and am willing to resort to the words of the charter itself to see what the legitimate powers of that court purport to be, in deciding such controversies.

From the very fact of there being two parties in the Federal Government, it would seem a necessary inference that the agents of each party, on proper occasions, must be allowed and are required, by an official oath, to conform to the constitution, and to decide on the extent of its provisions, so far as is necessary for the expression of their own views, and for the performance of their own duties. This being, to my mind, the *rationale* of the case, I look on the express words of the constitution as conforming to it by limiting the grant of judicial jurisdiction to the Supreme Court, both by the constitution and by the acts of Congress, to specific enumerated objects. In the same way there are limited grants of judicial jurisdiction to State courts, under most of the State consti-

FEBRUARY, 1830.]

Mr. Foot's Resolution—Nullification.

[SENATE.]

tutions. When cases present themselves within these grants, the judges, whether of the States, or the United States, must decide, and enforce their decision with such means as are confided to them by the laws and the constitutions. But when questions arise, not confided to the Judiciary of the States or United States, the officers concerned in those questions must themselves decide them; and, in the end, must pursue such course as their views of the constitution dictate. In such instances they have the same authority to make the decision as the Supreme Court itself has in other instances.

Thus the Virginia Resolutions, page 18, say: "However true, therefore, it may be, that the Judicial Department is, in all questions submitted to it by the forms of the constitution, to decide in the last resort, this resort must necessarily be deemed the last in relation to the authorities of the other departments of the Government; not in relation to the rights of the parties to the constitutional compact, from which the judicial as well as the other departments hold their delegated trusts. On any other hypothesis, the delegation of judicial power would annul the authority delegating it; and the concurrence of this department with the others in usurped powers, might subvert forever, and beyond the possible reach of any rightful remedy, the very constitution which all were instituted to preserve.

Thus, Mr. Jefferson says:

"They contain the true principles of the revolution of 1800, for that was as real a revolution in the principles of our Government as that of 1776 was in its form; not effected, indeed, by the sword, as that, but by the rational and peaceable instrument of reform—the suffrage of the people. The nation declared its will by dismissing functionaries of one principle and electing those of another; and the two branches, the Executive and Legislative, submitted to their election. Over the Judiciary Department the constitution had deprived them of their control. That, therefore, has continued the reprobated system; and although new matter has been occasionally incorporated into the old, yet the leaven of the old mass seems to assimilate to itself the new; and after 20 years' confirmation of the Federal system by the voice of the nation, declared through the medium of elections, we find the Judiciary, on every occasion, still driving us into consolidation.

"In denying the right they usurp, of exclusively explaining the constitution, I go farther than you do, if I understand rightly your quotation from the Federalist, of an opinion that 'the Judiciary is the last resort in relation to the other departments of the Government, but not in relation to the rights of the parties to the compact under which the Judiciary is derived.' If this opinion be sound, then indeed is our constitution a complete *felo de se*. For, intending to establish three departments, co-ordinate and independent, that they might check and balance one another, it has given, according to this opinion, to one of them alone the right to prescribe rules for the government of the others, and to that one, too, which is unelected by, and independent of, the nation. For experience has already shown that the impeachment it has provided is not even a

scarecrow; that such opinions as the one you combat, sent cautiously out, as you observe, also, by detachment, not belonging to the case often, but sought for out of it, as if to rally the public opinion beforehand to their views, and to indicate the line they are to walk in, have been so quietly passed over as never to have excited animadversion, even in a speech of any one of the body intrusted with impeachment. The constitution, on this hypothesis, is a mere thing of wax in the hands of the Judiciary, which they may twist and shape into any form they please. It should be remembered, as an axiom of eternal truth in politics, that whatever power in any Government is independent, is absolute also; in theory only, at first, while the spirit of the people is up, but in practice as fast as that relaxes. Independence can be trusted nowhere but with the people in mass. They are inherently independent of all but moral law. My construction of the constitution is very different from that you quote. It is, that each department is truly independent of the others, and has an equal right to decide for itself what is the meaning of the constitution in the cases submitted to its action; and especially where it is to act ultimately and without appeal."

In confirmation of this, almost every Eastern constitution authorizes the departments of Government, not Judicial, to call on the judges for aid and advice merely, in questions of difficulty, still leaving those departments to act finally on their own matured information, and their own responsibility. But all the difficulty does not arise here. Suppose the State agents, judicial or otherwise, decide wrong in the opinion of the people; or the agents of the General Government decide wrong in the opinion of the people, on subjects admitted to be within their jurisdiction; is there, first, no remedy for the people? Are not they supreme?

As I before remarked, the people, in their omnipotence, if the case excite them enough, can, and will, in such event, always apply a most sovereign remedy; sometimes reach the disease by changing the agents who have misbehaved; at other times, when unable, by the tenure of office, as in the case of the judges generally, to reach that class of agents by new elections, they can, by conventions, alter or abolish the whole system of Government, and the whole course of decisions under them; and improve and create anew whatever may have been objectionable. This is a doctrine neither revolutionary nor leading to anarchy, but rational and democratic, and lies at the foundation of all popular Governments. But, granting this, the argument still holds, that, though the people can effect a change, yet the States, one of the parties to the compact, cannot reach or correct what they may deem an erroneous decision by the agents of the other party on the powers given by the compact, and especially that they cannot reach or correct an erroneous decision made by the Supreme Court of the Union. Again, it may be answered, reasoning *a priori*, that, if this be true, it is deeply to be lamented, as the people seldom act unitedly or efficiently except through their State agents—



those agents who come so frequently and so directly from among the people themselves. If this be true, it is quite certain that the Supreme Court might, if so disposed, proceed, case by case, from year to year, on one subject and another, in this and that section of the Union, to give constructions to the constitution, tending slowly, but inevitably, to a consolidation of the Government, and to the utter prostration of State rights: and yet the people, as a people, would not widely and at once become enough excited to interpose in their primary authority, and stay or correct such encroachments. If this be true, any Supreme Court entertaining political views hostile to those of a majority of the people, would be able, in time, by cautious approaches, not exciting general and deep alarm, to defeat the majority, to render the reservations to the States and people a mere *brutum fulmen*, turn the doctrine of State rights into a jest, and ride triumphantly over all probable and feasible opposition.

There is wanting in me no respect to the members of our Supreme Court which their great personal worth deserves: but I would inquire if, from the case of *Marbury* and *Madison*, in 1801, down to that of the *Bank* and *McCulloch* in 1821, there has not been evinced on that bench a manifest and sleepless opposition, in all cases of a political bearing, to the strict construction of the constitution adopted by the democracy of the Union, in the great revolution of 1801? I say nothing now against the honesty or legal correctness of their views in adopting such a construction. I speak only of the matter of fact, and of its political tendency; and I ask, if, while the people, through their democratic agents in the Legislatures of the State and General Governments, have been, in the main, adhering to one construction,—a strict and rigid construction—if their Judicial agents in the General Government have not been, with a constancy, and silence, like the approaches of death, adhering to a different construction? Thus sliding onward to consolidation; thus giving a diseased enlargement to the powers of the General Government, and throwing chains over State rights—chains never dreamed of at the formation of the General Government. What says Mr. Jefferson on this head? (4 *Jefferson's Works*, page 387.)

"But it is not from this branch of Government we have most to fear. Taxes and short elections will keep them right. The Judiciary of the United States is the subtle corps of sappers and miners which is constantly working underground to undermine the foundations of our confederated fabric. They are construing our constitution from a co-ordination of a general and special Government to a general and supreme one alone. This will lay all things at their feet, and they are too well versed in English law to forget the maxim, '*boni judicis est ampliare jurisdictionem*.'"

No institution, in this free country, is above just criticism and fair discussion, in regard to its political views, and the political conse-

quences of its proceedings. Hence, in the States, and everywhere, the field of inquiry and comment is, and should be, open to all; and a sacredness from this would render any institution a despotism. What, then, let me ask, what have been the illustrations of the bearing of the decisions of that court upon State rights, in particular cases? At one time, has not Georgia been prostrated, by a decision, in a case, feigned, or real, between *Fletcher* and *Peck*? At another, Pennsylvania humbled, in the case of *Olmstead's executors*? At another, Ohio and Maryland subdued, in the case of *McCulloch* and the *Bank*? At another, New York herself set at defiance, in the steamboat controversy? And last, if not least, New Hampshire vanquished in the case of *Dartmouth College*? These decisions may, or may not, have been legally right; that is not my present inquiry; but who is not struck with the difference between the progress and effect of these decisions, and what was witnessed in the earlier days of the Republic? When *Massachusetts*, in the height of her glory, was threatened to be brought to the bar of that court for trial, she, in the person of *Hancock*, set on foot a remonstrance, and a proposed amendment of the constitution, which her great influence carried throughout the Union—an amendment exempting a sovereign State there, in certain cases, from the humiliation of a trial and sentence. Even this amendment, so plausible on its face, has, since 1801, been almost wholly evaded in practice, by suing the agents of a State, instead of the State itself. So again, before 1801, when Virginia, in her might and chivalry, took the field against the alien and sedition laws and against the decision of the Supreme Court on their constitutionality, an alteration of the constitution, to be sure, did not follow, but an alteration in the administration and the laws did follow; and she effected the political revolution which suffered those laws to expire without a renewal, and will probably prevent their re-enactment, until democracy itself shall have become a forgotten tale. I shall enumerate no other cases, nor detain the Senate by a moment's inquiry into the correctness of any of these decisions: though it may be observed that my own State, on an attempt to obtain her political approbation of the decisions in the cases of *Ohio* and *Maryland*, and of the principles therein involved, postponed indefinitely the resolutions on that subject, by the following vote, in one branch of her Legislature:

June 24, 1821. The Senate voted, seven to five, to postpone indefinitely the following, among other resolutions:

"Resolved, That, in the opinion of this legislature, the proceedings in the Circuit Court of the United States for the district of Ohio, in the before-mentioned report stated, do not violate either the letter or the spirit of the 11th article of the amendment of the Constitution of the United States, nor constitute any just cause of complaint."

FEBRUARY, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

The only time she ever expressed any opinion, as a State, hostile to my views concerning the powers of the General Government, and its Judiciary, was in rejecting the Virginia resolutions, at an era in her politics when, having just cast her votes for the elder Adams, she might naturally be expected to be hostile to the democratic principles of those resolutions.

It will thus be seen how the powers of the General Government have been gradually brought, through one of its departments, to bear on the States; and how the decisions of that department have gradually tended to the dangerous enlargement of those powers. This subject has been adverted to, not for the purpose of questioning the constitutional competency of that court so to decide, when it thinks best, but to ask whether no way exists for the States, when opposed to the political bearing of those constructions; when opposed to such a political operation of the constitution, to check or control the influence of such a course of decisions? And, if any way does not exist, whether the Government is not likely soon to end in consolidation? And whether our future Presidents and Vice Presidents, without reference to any of the signs of the times about a new alliance, are not, as more than once intimated in this discussion, from the West and East, to be lifted hereafter from that bench, to preside over the new destinies of a consolidated Government? My own answer to some of these inquiries, is, firstly, that, by the States, as States, the erroneous decision of the Legislative and Executive departments of the General Government can generally be corrected by changing, in the State Legislatures, and at the ballot boxes, the agents here who made those decisions. This has been the ordinary remedy in ordinary cases. Another class of decisions, and especially those by the Judiciary, when the judges are not removable by the people, or the States, or Congress, as those of the Supreme Court are not, can be corrected, sometimes by the States, as States, through public expressions of opinion in their Legislatures, acting by their intrinsic reasoning and force on the agents who made those decisions, and inducing them to revise and alter their doctrines in future. It would not be derogatory to any court to listen to any expressions of opinions and arguments such as those contained in the Virginia resolutions of 1798; in the resolutions of South Carolina on the tariff; or in the Executive message, resolutions, and report, of the Legislature of New Hampshire, in 1822, on the constructive powers claimed for the General Government. When all these modes fail, another and decisive resort, on the part of the States, is to amendments of the constitution, by the safe and large majority of three-fourths. The acknowledged power of the States, by their resolutions and concert, in this way, to effect any changes, limitations or corrections, shows clearly that in them the real sovereignty between the two Governments is placed by

the constitution, and in them the final, paramount supremacy resides. They can alter this constitution; but we, here, cannot alter their constitutions. We, then, are the servants, and they the master. On the contrary, whatever others may hold, I do not hold that any certain redress, beyond this, on the part of any State, can be interposed against such decisions of the Supreme Court as are followed by legal process, unless that State resorts, successfully, to force against force, in conflict with the Federal agents. It is admitted by me, however, that a State may resolve, may express her convictions on the nullity or unconstitutionality of a law or decision of the General Government. These doings may work a change through public opinion, or lead to a co-operation of three-fourths of the sister States, to correct the errors by amendments of the constitution. But whenever the enforcement of the law or decision comes within the scope of the acknowledged jurisdiction of the Supreme Court, and can be accomplished by legal process, I see no way in which that court can be controlled, except by moral and intellectual appeals to the hearts and heads of her judges, or by amendments to the constitution, or by the deplorable and deprecated remedy of physical force. This latter resort I do not understand any gentleman here to approve, until all other resorts fail; and even then, only in a case where the evil suffered is extreme and palpable, and, indeed, more intolerable and dangerous than the dissolution of the Government itself.

Such was the doctrine of Jefferson and Madison. (*Virginia Resolutions*, p. 18.)

"The resolution has accordingly guarded against any misapprehension of its object, by expressly requiring, for such an interposition, 'the case of a deliberate, palpable, and dangerous breach of the constitution, by the exercise of powers not granted by it.' It must be a case, not of a light and transient nature, but of a nature dangerous to the great purposes for which the constitution was established. It must be a case, moreover, not obscure or doubtful in its construction, but plain and palpable. Lastly, it must be a case not resulting from a partial consideration or hasty determination, but a case stamped with a final consideration and deliberate adherence."

Beyond these views I trust no member of this confederacy will ever feel either the necessity or inclination to advance, and thus put in jeopardy that Union which we all profess so highly to prize.

FRIDAY, February 26.

*Mr. Foot's Resolution—Nullification.*

MR. SMITH, of South Carolina, said: This discussion, sir, has involved the consideration of two great political questions; whether, if a State be borne down by the oppressive operation of a law of the United States, the proper appeal from that oppression is not to the

Judiciary; or whether, in such a case, the State aggrieved has not a right to withdraw, and say to the rest of the Union, we no longer belong to you, because you have violated the compact with us; we have decided for ourselves that you have oppressed us; your laws are unconstitutional, and we will no longer continue a member of the Union.

On the first portion of this subject, if it could be heard before the Senate as a distinct proposition, and the Senate had the power to decide upon it, I would give it, as far as I should be able, the best consideration its importance would demand; but it is utterly out of the question for a speaker to investigate and descant upon a mere speculative political question, where no results are to be expected, as he would feel himself bound to do were the question a real one, from which some solid and permanent good was to flow, instead of one that should yield little more than an opportunity of making a speech to raise his own fame. But, as it has been the course, in this erratic flight of the Senate, that has drawn into its vortex any thing and every thing, civil, religious, and political, as the speaker may have thought fit to select, and this has been selected as one choice subject by those who have gone before me, I will offer a few unpremeditated remarks.

For the judges of the United States I entertain the highest respect, both in their judicial character as well as in their individual character: and am willing to attribute to them as much integrity, and as much talent, as falls to the share of any judges, in this or any other country. But it seems to me that their province is limited to decisions between citizen and citizen, and between the United States and citizens, the individual States, &c., and in all cases of *meum et tuum* their decisions are conclusive. But may not a distinction be taken, where a law is notoriously unconstitutional and oppressive upon the whole community of a State; where the ground of complaint would be, that Congress had enacted a law, not only against the letter, but likewise against the spirit and meaning of the constitution; which law was undermining all the private rights of individuals, as well as rights appertaining to them as the community of a State?

Then, sir, suppose the court of the United States always to consist of seven judges, as it now does; and suppose a question upon the constitutionality of a law of the United States that had vitally affected the people of a State in their private and municipal rights should come before these seven judges for their decision, and three of the seven should pronounce the law constitutional and three others of the seven should pronounce it unconstitutional. Here the opinions of six of the seven are completely neutralized, and the whole weight of the question, be it of what moment it may, must devolve upon a single judge. This single judge would hold the balance, and have it in his power to decide the fate of the Union by his

single dictum. The entire operations of the law must cease, if he should say no: or its operations must go on if he should say ay; be the consequences what they may. The peace and happiness of the Union must be destroyed or preserved as he should be guided by prudence and honesty on the one hand, or by caprice and ambition on the other; because judges are not always exempt from these passions. Or let us suppose a law, affecting in a special manner the private or municipal rights of the people of a whole State, should be enacted by Congress, to compel vessels going from one port to another, in the same State, or to a port in a different State, to clear out at the port of departure, and the master should refuse to do so because the law was unconstitutional, as the constitution expressly forbids it: Should your judges ever be misled to declare such a law constitutional, and the collector of the revenue should be resisted, could he who made the resistance be convicted of an offence against the constitution of his country? If the opinions of the judges are to be considered the constitution, or if the judges are clothed with this tremendous power—a power that gives to a single man the control of the destiny of this Union—is it not time to inquire whether it be not fit to place it in some more responsible repository?

The other great question, whether a State has a right to secede from the Union, if Congress should pass an unconstitutional law that should prove oppressive, is a question of still greater moment.

Were I to be asked what opinion I entertained of the power of a State to dissolve its political connection with the Union, I would respond, go ask my constituents. This is not the time, and place, and circumstances, that will justify a discussion of that question between the United States and the State of South Carolina. If South Carolina is aggrieved by the tariff—and she most assuredly is to an extent of great oppression—and the remedy is only to be found in a separation from the Union, it belongs exclusively to the people of that State to meet in convention, examine the subject, weigh the consequences, and settle the mode of operation. That is the course, and the only course, by which this question can be determined, and not by any flight of fancy that may exist in my imagination, or that of any other member of Congress. I unfeignedly believe there is at this time in the Legislature of South Carolina, much patriotism, much devotion to the Union, and as much independence and firmness as could possibly be wanting to adopt any plan of operation that wisdom, patriotism, justice, interest, or love of the Union, may dictate, for the relief of their burthens. I do not withhold my opinion here from fear of responsibility. I shrink from no responsibility imposed upon me as a member of this Senate. If the wisdom of my Legislature, whose province it is to determine upon that measure, and act upon that great occasion, should think proper to call

FEBRUARY, 1830.]

Mr. Foot's Resolution—Nullification.

[SENATE.]

a convention, and my country should honor me with a seat there, I will assume any responsibility which the wisdom of the occasion, or the interest of my country, may require at my hands.

Sir, I will go further; and should the cupidity or the madness of the majority in Congress push them on to impose one unconstitutional burthen after another, until it can be no longer borne, and no other alternative remains, I will then take upon myself the last responsibility of an oppressed people, and adopt the exclamation of the poet, *dulce et decorum est pro patria mori*; and if the exigencies of my country should ever demand it, I will be ready to shed my blood upon the altars of that country. I am attached to the Union; I wish to see it perpetuated; I wish it may endure through all time. But if the same causes exist in our Government which have overturned other Governments, what right have we to expect an exemption from the fatality of other nations? We need not go abroad, or into ancient history, for instances to warn us. If we only go back to 1774 and 1775, we shall see a much less cause producing that revolution which separated these United States from Great Britain, than now exists between the United States and the State of South Carolina. What was the exciting cause of that revolution? A three-penny tax on tea, which was then merely the beverage of the rich, and a small tax upon stamps. It was these small duties that set the whole United States in a flame: and that flame spread with the velocity of the winds, from one end of the United States to the other. Massachusetts, Virginia, and South Carolina, were united then in the same cause—the defence of their civil liberty; which was threatened by the small duty on tea. Memorials and remonstrances were resorted to, but for a short time, until a company in Boston, disguised in the habiliments of Indians, counselled, if not led, by the immortal Hancock, boarded the ships, and threw all the tea in the harbor overboard. May we not look for the same effects from the same causes, at all times, and in all places.

Whilst I regret that, under existing circumstances, this picture is not too highly colored, yet I believe there is a redeeming spirit at hand. The constitution itself, which has been made to bend to suit the interests of majorities, is undergoing a new version. Investigations of its true and plain common-sense construction are going on in more hands than one.

Among the distinguished writers engaged in this investigation is Dr. Cooper, who has been alluded to by gentlemen in this discussion; whose name is identified with every science; whose life has been devoted to the cause of civil liberty and human happiness. In his Political Economy, Consolidation, and other recent political pieces, he has torn the mask from the delusion of constructive powers and party intrigue.

A writer under the signature of "Brutus," in his "Crisis," has, with a master hand, given

an exposition to the great agitated points of the constitution, on the subjects of the Tariff and Internal Improvement, that will remain a treasure to his country while talents shall be regarded.

The lectures of Mr. Dew, of Virginia, on the restrictive system, are more like a mathematical analysis than the lectures of a professor on political economy. His illustrations are so plain, and so strong, and so conclusive, that they are perfect demonstrations of the errors and absurdity of the American system.

None of these writers have ever been answered by the advocates of Internal Improvement and the Tariff System. To these may be added, a paper recently published, by order of the House of Representatives, which will be read with much interest. It is the report of the Committee on Commerce written, as we understand, by Mr. Cambreleng, the chairman of that committee. It gives a more expanded view, and furnishes more evidences, drawn from facts, of the great impolicy and ruinous effects of the tariff, than have appeared in any State paper heretofore published by the Government. The disastrous effects which it has already, and will continue to produce upon our foreign commerce, are so fully and clearly established, that it must command admiration, and will be extensively read.

The flood of light which those distinguished writers have shed upon this subject, to which may be added this report, cannot fail to enlighten the benighted minds of an honest, industrious community, and bring them to reflect, seriously, whether it be just to tax the many for the benefit of the few. The manufacturers themselves regret that this system has been introduced. And well they may: for it is now fully ascertained that at least one-half of the moneyed capital of the New England States has been sacrificed by this *mania*, and a large proportion of the proprietors of manufacturing establishments bankrupted. Fortunes, that have been accumulating for half a century, have been swept away in an instant.

There can be no probability that men of business, raised to active pursuits, and accustomed to employ their capital in some productive and advantageous manner, can remain devoted to a system that must produce their certain destruction. In addition to so many reasons that exist, why we may hope for an early dissolution of this oppressive system, another reason, as strong at least, if not stronger than any other, is the certainty that the public debt of the United States will shortly be extinguished. When that period shall arrive, there will not be even a pretext for the continuation of the tariff, except it be for the explicit and avowed purpose of protecting the manufacturers. And I beg leave to ask if there be even one man who can for a moment suppose that twelve millions of the free people of the United States will calmly submit to have

the direction of the whole of their labor taken out of their own hands, and placed under the management of the General Government; not to secure a revenue for governmental purposes, but that the Government may, at its discretion, parcel out the profits of the labor of one portion of the Union to bestow on those of another portion of the Union? Sir, it is morally certain that they will submit to no such tyranny. Nor will it be necessary for the people to rise in their might to put it down, either by one portion seceding from the rest, or by the more direful alternative of civil war, that must drench the States with the blood of their own citizens. Public opinion must, and will correct this mighty evil, and in its own way, and leave the States still further to cultivate their Union, upon those pure principles that first brought them together. If I am mistaken, however, and these hopes should prove illusive, it will then be time for the States to determine what are their rights, and whether they have constitutional powers to secede from the Union.

MONDAY, March 1.

*Mr. Foot's Resolution—Nullification.*

The Senate resumed the consideration of the resolution offered by Mr. Foot, in relation to future surveys and sales of the public lands.

Mr. GRUNDY said: I will now proceed to an examination of another subject, upon which a great diversity of opinion seems to prevail—I mean the powers of the State and Federal Governments. As to the true division or distribution of their powers, no difficulty exists so long as we speak in general terms; differences of opinion arise when we come to act on particular cases: at present, we have no case before the Senate, and are only discussing the subject for the purpose of ascertaining the true rule by which to test cases as they arise; and in the event Congress should transcend the limits or boundaries of its constitutional powers, to ascertain where we are to look for the ultimate corrective tribunal.

The States existed prior to this Government. Each of them possessed all the rights and powers which appertain to sovereign and independent nations. For all the purposes of self-government, no want of power, or the means of using it, was felt by any of these communities. Life, liberty, reputation, and property, all found an ample protection in the State Governments. If any Internal Improvement were necessary, within its limits, the sovereign power of the State, having entire and uncontrolled jurisdiction, could cause it to be undertaken and effected. For none of these purposes or objects was there a defect of competency in the State Governments. There were objects, however, of high importance, to which the States, separately, were not equal or adequate to provide. These are specified in the commendatory letter issued by the convention, and

signed by General Washington, which accompanied the constitution, when presented to the old Congress for its consideration. The language is, "The friends of our country have long seen and desired, that the power of making war, peace, and treaties; that of levying money and regulating commerce, and the correspondent executive and judicial authorities, should be fully and effectually vested in the General Government of the Union." Here is an enumeration of the objects which made it necessary to establish this Government; and when we are called on to decide whether a subject be within our powers, we ought not to lose sight of the purposes for which the Government was created. When it is recollected that all the powers now possessed by the General and State Governments belonged originally to the latter, and that the former is constructed from grants of power yielded up by the State Governments, the fair and just conclusion would be, that no other power was conferred, except what was plainly and expressly given. But if doubt could exist, the 10th article in the amendments to the constitution settles this question. It declares that "The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people." The conclusion hence arises, that this Government is one of limited, delegated powers, and can only act on subjects expressly placed under its control by the constitution, and upon such other matters as may be necessarily and properly within the sphere of its action, to enable it to carry the enumerated and specified powers into execution, and without which, the powers granted would be inoperative. This I understand to be the good old republican doctrine, and by it I will endeavor to regulate my conduct.

In cases of disagreement between the Federal and State Governments, as to their respective powers, who is to decide? This is the question I propose briefly to examine. In cases of doubtful character, no question will probably arise, because no court, State or Federal, will declare a law unconstitutional, unless it is clearly and manifestly so. This is the rule of decision avowed by all the high judicial tribunals of the country; nor will any State act differently. I admit that the Supreme Court is the final arbiter in all cases in law and equity, arising under the constitution, and the laws of the United States made in pursuance of it. Still, the case put by Mr. Madison, in his report to the Virginia Assembly, in the year 1799, is not included. The alien and sedition laws, the subjects on which he was then acting, were believed and declared by him and the Virginia Assembly, to be a deliberate, palpable, and dangerous exercise of powers, not granted by the compact or constitution. In such a case as that, I ask the Senate, shall one party decide? It will be readily granted, that, in settling questions of right or power between different na-

MARCH, 1830.]

Mr. Foot's Resolution—Nullification.

[SENATE.]

tions, one party ought not to be the exclusive judge; otherwise, so strong is the love of dominion and rule, it will include within its grasp all the power possessed by both. This is the very principle for which gentlemen contend, when the subject is stripped of a fallacy, which at first obstructs the mental vision of the inquirer after truth. Gentlemen seem to consider the Supreme Court of the United States as a separate, distinct tribunal, erected by all the parties concerned, and as dependent on one party as on the other. Not so; it is a portion or part of one of the parties, created by the legislative and executive branches of the General Government, and responsible alone to that Government. The Federal Judiciary, although the tenure of office be during good behavior, is greatly dependent on the other branches of the General Government. Burthens may be imposed upon them, and their labors so increased, as to expel them from the bench, from an inability to discharge all the duties required by law. I name this, because an effort is now making to compel the present judges to perform their official duties in six additional States—a thing wholly impracticable.

In every contest for power, there would exist in the Judiciary the same motives to lead it astray, as would exist in the other departments, with this difference—they would be stronger, because the judges hold their offices by a tenure of greater duration. If the position of gentlemen be well founded, then the State Governments have been guilty of the folly and weakness of creating a Government which can adjudge away all their sovereign rights and powers; a creature competent to the destruction of its creators; and all this, by the easiest operations imaginable. A case is presented to the court by the Attorney-General, an opinion is written on a few sheets of paper, and Mr. Peters (the reporter) is directed to put it in his book, and forthwith twenty-four sovereign and independent States are prostrated and destroyed. Sir, much as I love peace and quietness, before I witness this, I desire to hear more clamor about it than would arise from this silent, sapping, and undermining procedure. I am arguing upon the principle, without reference to the judges now sitting under this Senate chamber; towards each of them I entertain a high respect; and should any attempt be made affecting the independence of the Judiciary, I will go as far as he who goes farthest in its defence.

If those from whom I differ be right, the only security the States have, is the integrity of a majority of seven men; and as the constitution did not direct what number of judges should constitute the Supreme Court, one could have been placed there; and upon his will alone, according to the argument on the other side, would depend the fate of twenty-four sovereign States.

In all questions of *meum et tuum*, embraced within its constitutional jurisdiction, this court

is the supreme tribunal, and incidentally, between individuals, it must decide upon all questions necessary to enable it to come to a result or final determination; and the decision will be binding upon the parties. This, however, by no means proves that the court can decide upon the sovereign rights of the States, so as to affect them. The gentlemen have been requested by my friend from Kentucky, (Mr. ROWAN,) to produce an instance in which sovereignty has submitted itself to any judicial tribunal. The very act of doing so implies dependence and inferiority; and that government which admits its adversary to decide in such a case, acknowledges that it is not sovereign and independent. Mr. Madison, who understood the constitution and structure of the Government as well as any man that ever lived, was of opinion that the Federal judiciary possessed no such power. Mr. Jefferson, the great teacher of republicanism, throughout his whole life contended against it; and, fortunately for the American people, their opinions are recorded in our national archives, and will be preserved for the benefit of those who are to succeed us. The necessary result is, that the power of deciding finally and conclusively does not exist in either Government, or any department of either. What, then, is to be done if Congress pass an act beyond the limits of its constitutional powers, and it is found to operate oppressively, say upon Virginia? I name this old, leading, champion State, for the purpose of illustrating my argument more clearly. Shall Virginia submit? No. She is oppressed—unconstitutionally oppressed. The General Government has declared in all its departments that the act is binding. The Legislature of Virginia is of a different opinion. Has she no right to say to the General Government we did not give up this power which you have exercised? May she not say it is an authority you have usurped? Such language has been held—it was done by Virginia and Kentucky, by their resolutions in 1798 and 1799; and it produced the desired effect. Those who had exercised unconstitutional powers were put down, and the administration of Mr. Jefferson succeeded. This was an appeal to the intelligence and patriotism of the nation, to correct the evil through the medium of the elective franchise. It prevailed, and will always prevail, unless an interest exist in the majority at variance with the rights and interests of the minority. When that is the case, it may happen that a sense of justice will be too weak to produce a repeal of the unconstitutional measure. What then? Shall Virginia throw herself out of the Union? No. One set of agents employed to act in the Federal Government have asserted their authority and jurisdiction over certain subjects, and they insist on their right to do so. Another, acting in the States, insist that the agents of the General Government have transcended their authority, engrafted on the constitution provisions not originally contained in it, and are exercising

the reserved powers of the State. It becomes a mere dispute among agents; the employers, the masters, the real sovereigns, have not decided it. In this state of things, shall Virginia submit to be despoiled of her sovereignty? Sir, she will not, by tame submission, surrender her high political character and pre-eminence; rather than do this, her Madisons and Monroes would forget their years, and mingle again in the political strife; her Giles would lay aside the crutches of decrepitude; and the gentleman from Maine, (Mr. HOLMES,) would again hear the keen, cutting voice of the Roanoke orator, dividing and separating, even unto the joints and marrow.

If I am to understand any Senator as saying that a State Legislature can nullify and make void an act of Congress, so far as to prevent its operation within its limits, I dissent from him. The Federal constitution was not received or adopted by the Legislatures of the States; the members are not elected for such high purposes. The ambition of a few aspiring men might mislead the legislature, when called on to act suddenly and unexpectedly. Let the injured and oppressed State, then, assume its highest political attitude—a convention in the State, for the purpose of deciding whether the great fundamental law, which unites and binds the States together, has been violated, by Congress having exercised powers reserved to the States, and not delegated to the General Government. If a false clamor has been raised, this measure will put it down. In every State there is a division among politicians, and the minority are only waiting for an opportunity to put the majority in the wrong. The people being called on to act in this solemn manner, will put the whole intelligence of the community into action. The aged, the wise, the experienced, well-tryed friends of the country will be called into the public service. Such men will not lightly pronounce an act of Congress unconstitutional and void; but should they upon full consideration so declare, how will the question then stand? If the State possesses the power to act as I have shown, the necessary consequence is, that the act of Congress must cease to operate in the State; and Congress must acquiesce, by abandoning the power, or obtain an express grant from the great source from which all its powers are drawn. The General Government would have no right to use force. It would be a glaring absurdity to suppose that the State had the right to judge of the constitutionality of an act of the General Government, and at the same time to say that Congress had the right to enforce a submission to the act. This would involve a palpable contradiction. This may be illustrated by reference to the powers of the Supreme Court in analogous cases. All admit that this high tribunal has the right, in a case properly before it, and within its jurisdiction, to declare an act of Congress unconstitutional; the effect of which is, to render the act inoperative, not only in one State, but in all. In this

case, Congress is obliged to acquiesce and abandon the power, or obtain an express grant from the original source, after the manner already stated. No force can be applied to give effect to the act thus declared void by the Supreme Court, or to compel it to change its decision. But gentlemen, instead of meeting our arguments fairly, exclaim that such a power on the part of the State is inconsistent with the existence of the General Government, and is placing twenty-three States at the mercy of one, and that the Union, by such an act, would be dissolved. I cannot but think that all such objections arise from an imperfect view of our admirable system of Government. They originate in a supposition that Congress possesses an independent and uncontrollable power, which is unknown to our system. If the gentlemen will but advert to the fifth article of the constitution, they will find a redeeming power—a power above all others; which can mould the constitution, and define, anew, the relations between the State and the General Governments; I mean the constitutional number of States. This is not a mere dormant power. The mode in which it is to be called into action is expressly laid down, and, when properly invoked, will at all times prove adequate to save this glorious system of ours from disorder and anarchy. Whenever a conflict, such as I have described, arises between one of the States, acting in its sovereign capacity, and the General Government, it is to this high arbiter (a convention of the States) the parties must resort, and not to the Supreme Court, the creature of one of the parties. But who is to make the appeal? Surely the party claiming to exercise the power, and which alone possesses the means of making it. To require the oppressed State to do it, would be absurd. The constitution provides two modes of amendment: one, when two-thirds of both Houses of Congress shall propose amendments; the second, when two-thirds of the Legislatures of the States shall make application to Congress to call a convention for proposing amendments. In either case, three-fourths of the States are required to ratify; and the agency of Congress is necessary in both. On Congress, then, is the burthen of making the appeal, on the ground that it claims the exercise of the power, and because, alone, it is possessed of the means. It cannot be considered unreasonable that a State, which has declared, in the most solemn manner, its reserved rights to have been violated, should possess the power of compelling the General Government to make an appeal to the source from which all its powers are derived. It was called into existence by three-fourths of the States, and can exercise no power, without usurpation, which has not been granted. What can be more rational? What more consistent with the spirit of our system, than where there is a conflict between a sovereign State (a party to the compact) and the General Government, as to the powers which have been yielded to the latter,



MARCH, 1830.]

*Marine Service.*

[SENATE.]

that it should be compelled to decide the question by an appeal to the source of all its powers? I do not hesitate to say that the power on the part of the States to compel such an appeal is indispensable to the existence of their sovereignty, and to the preservation of their reserved rights. Without it, the General Government, in its practical operation, would be an unlimited, consolidated Government, notwithstanding the limitations imposed by the provisions of the constitution. Its construction of the constitution would be the constitution. Those who know the force and influence of construction, how it can pervert the plainest import of words, when under the influence of self-interest, well understand the fearful changes it is capable of producing. If there be no check, an interested majority, using the powers of the General Government, which were given for the protection and benefit of all, as the instrument of aggrandizing themselves at the expense of the minority, may, by construction, gradually undermine and render obsolete the sacred provisions of this instrument. We already see fearful symptoms of encroachment, which no patriot can look at without dismay, and which, if persevered in, can only be arrested by an exercise of the power for which I contend. The Supreme Court is wholly inadequate. If three-fourths of the States shall not concur in admitting the contested power, or shall not pronounce that it already exists, Congress will be constrained to abandon the exercise of it, inasmuch as no new power can be granted without such concurrence. The decision of a less number ought not to be obligatory, where a State has solemnly pronounced that such a grant of authority was never made. But suppose three-fourths of the States decide the question against the complaining State, then acquiescence becomes a duty, and it must submit; or a state of things arises not provided for by the constitution, on the consequences of which I will not dwell. The doctrine for which I contend is not of recent origin. I am merely an humble disciple of an old school, recalling it to public view. Mr. Jefferson long since advanced the opinion I now advocate, and in his letter to Judge Johnson, of June, 1823, he remarks, in reference to the following expression, used by another distinguished citizen, that "there must be an ultimate arbiter somewhere," "True," (said Mr. Jefferson,) "there must; but does that prove it is in either party? The ultimate arbiter is the people of the Union, assembled by their deputies in convention, at the call of Congress, or of two-thirds of the States. Let them decide to which they mean to give an authority, claimed by two of their organs. And it has been the peculiar wisdom and felicity of our constitution to have provided this peaceable appeal, where that of other nations is at once to force."

*Marine Service.*

The following resolutions, submitted on the

27th of February, by Mr. BARNARD, were taken up for consideration:

"Resolved, That the Secretary of the Navy be directed to furnish to this House information on the following subjects:

"1st. Whether it is necessary to the armed equipment of a vessel of war that marines should compose a part of its military force; or whether marines may not usefully be dispensed with, and a portion of the seamen be instructed in the use of small arms, and perform all duties which can be required of marines, either in battle or in ordinary service.

"2d. Whether seamen are not now instructed and practised in the use of small arms; and, generally, any information which may elucidate the inquiry, whether marines can or cannot be beneficially dispensed with on board of our public vessels of war.

"3d. Whether the petty officers and seamen, who have been in service, but from age or slight disabilities are rendered unfit for the active duties of their calling, on shipboard, can be usefully and safely employed as guards at the navy stations, in lieu of the marines now assigned to that duty.

"And further, that the Secretary of the Navy obtain from the officers composing the Navy Board, and other naval officers of rank now at the seat of Government, their opinions, in writing, on the foregoing subject, to be transmitted with his report to the Senate."

Mr. SMITH, of Maryland, said he was opposed to this mode of obtaining information. He recollected that the policy and propriety of obtaining opinions from Heads of Department was discussed when Congress sat in Philadelphia. Some gentlemen were in the habit of, at that time, calling on the Secretary of the Treasury for his opinion on any favorite subject, relating to his Department, in order that they might be aided in accomplishing their object by the weight that gentleman's opinion bore in the legislative hall. It was then decided, that opinions of Heads of Department were unnecessary, as members themselves were as capable of forming as correct an opinion as they; and that they were improper, as tending to influence the discussion of the Legislature. Mr. S. said it was sufficient to require facts from the Departments and leave members to form their own opinions on those facts. For these reasons, he was opposed to the resolution.

Mr. BARNARD said, the remarks made by the Senator from Maryland, (Mr. SMITH,) in opposition to the resolution now under consideration, made it necessary for him briefly to state some of the views and reasons which influenced him in presenting it. It will be recollected (said Mr. B.) that, at the commencement of the present session, the President of the United States, in his Message to Congress, recommended that the marine corps should be transferred to, and merged in, the army; and whatever marines might be required for naval service should be obtained by draughts from the army, as it was stated that no previous training was necessary for this service. The Military Committee of the Senate, upon the reference of the several parts of the President's Message, considered this



subject as coming in some measure before them: although of a mixed character, relating both to the army and navy, yet they conceived it entitled to their consideration. But it occurred to me, sir, that it was proper to settle a preliminary question before we could come to any satisfactory conclusion on the recommended transfer of the marine corps, and that was, whether either marines or soldiers were necessary as a part of the armed force on board of a vessel of war. If marines are indispensable on ship-board, then I am willing to admit that it will be better to retain the corps as it is, and cure any defect in its organization, if such should exist, by a re-organization, if necessary; for I can readily foresee difficulties that will arise in taking soldiers from the army to perform marine duty. I wish merely to mention one or two that have occurred to me. By the existing laws of Congress, punishment by stripes is expressly prohibited in the army of the United States. When a soldier, therefore, enlists in the service, it is under an implied agreement, if not express understanding, that this punishment shall not be inflicted on him for ordinary offences. If he is called on to perform marine duty, on board one of your vessels of war, is he to be subjected to the punishment usually inflicted on seamen, or is there to be two kinds of punishment, one for the marine, and the other for the sailor, on board of the same vessel? Every naval officer will tell you at once, that this distinction in punishments cannot exist. That, for the same offence, there must be the same kind of punishment, whether for marines or seamen.

There is another inconvenience (said Mr. B.) that has struck me will arise in taking soldiers. A company of soldiers consists of about fifty or sixty men, commanded by a captain and two lieutenants. If a draught is required for one of your smaller vessels, say a sloop of war, about half a company only will be required; for I believe the number of marines usually employed on board one of that class of vessels is between twenty and thirty only. If you then take this number, you divide the company, leaving the captain on shore with one of his subalterns, while the other is sent in command of the detachment to serve at sea. It must be apparent, I think, that such a state of things would operate injuriously to the army. But my design is not now to go into an examination of the inconveniences that would result, by making detachments from the army for marine duty at sea. It is not necessary to the consideration of the resolution before us. I have merely stated one or two as they struck me. My object is to obtain from those competent to give it, the information asked for in the resolution; that is, whether marines cannot be entirely dispensed with on ship-board, and a portion of seamen trained to the use of small arms, to perform any duty that can be required of soldiers.

The Senator from Maryland objects to the resolution, because, he says, it is asking the

opinion of the Secretary of the Navy, when we ought to ask for facts, and alleges that the Senate are just as competent to form opinions on this subject as the Secretary himself. But the resolution asks for information, and from whom? Why, sir, not from the Secretary alone, but from naval officers, whose long service and experience will enable them to give it. The resolution was purposely framed with a view to accomplish this object. But who can the Senate call upon for this purpose? Upon the officers themselves? No; but upon the Head of the Department, and, through him, upon the officers who are subject to his control. This is the only means that I am aware of by which we can officially obtain the information sought for.

I will acknowledge (said Mr. B.) that my impression has been, that marines are not indispensable for the sea-service in our public vessels. I may be in error. I do not pretend to any practical knowledge myself on the subject, and therefore it is that I want to be informed by those who alone can give satisfactory information. If, when it is obtained, in the report of the Secretary and the officers called on, it shall be found that marines cannot be dispensed with, it will show that I have been mistaken in my impression. I will, however, state a few of the reasons on which that impression has been founded; for I do not mean to go into an argument on the subject. It is well known that, in the British service, their seamen ever have been forcibly impressed, and compelled to serve on board their ships of war against their consent; and this, too, not for a few years only, but for life, or, at least, as long as they are fit for duty. It became necessary, therefore, to repress that spirit of mutiny which would unquestionably be found to exist in a crew thus violently torn from their friends and family, and forced into the service against their will. For this purpose marines, it is believed, were originally introduced on board of British ships, as much, if not more, to overawe and keep the seamen in subjection, than to assist in navigating or fighting the vessel. This duty, on the part of the marines, has produced a feeling on the part of the sailors towards them, if not of actual hate, certainly any thing but cordiality and good will. The dislike of the sailor for the marine is proverbial.

In our service (continued Mr. B.) marines cannot, it is presumed, be necessary to guard the seamen, and prevent mutiny. Seamen are voluntarily enlisted, and for a shorter period than marines themselves; they are not forced into the service, as in the British navy, but go into it of choice—it is their free act. Can it be possible, then, that they must be watched and guarded by soldiers to keep them to their duty? Such a belief is derogatory, it appears to me, to the character of our gallant tars. On one subject my mind is decided, that there should not be on board of the same vessel two jarring and distinct classes of men, who are in constant

MARCH, 1880.]

*Marine Service.*

[SENATE.]

collision with each other, unless imperious necessity demands it. Those who are to act with effect, can best do so by a union of feelings, and a similarity of habits. Experience has taught this lesson. Sailors and marines cannot, or, at least, have not, heretofore, assimilated, either in feeling or habit.

As the materials are then so discordant, can the service of the marines be dispensed with without injury to the service? Cannot seamen be trained to the use of small arms? I see no difficulty. Instead of marines, take the like number of young landmen from the country, any where, and they can load and fire with as much effect as the best-drilled marine. The Americans, generally, are accustomed from infancy to the use of fire-arms; very little training will therefore be required to make them expert gunmen. Besides, sir, I am informed that, by the present structure of our vessels of war, marines can render but little service on deck, and that musketry is used with most effect from the tops. If this is the case, is it not better to have seamen than marines? They will be ready to throw down the musket and spring to the yards and rigging at any moment, when required by the exigencies of the ship. This may sometimes be of great importance. Nor do I conceive the objection urged by the Senator from Maryland as sufficient, that seamen will not keep their arms in order. It is well known that, besides muskets, there are pistols, pikes, cutlasses, and other arms, on board of every armed ship: how are these kept in order? Not by marines. Muskets can be kept in good condition in the same way, by the armorer, or whatever name is given to the person in charge of the arms. The objection raised, too, that the pay of sailors is greater than marines, loses part of its weight, when it is recollected that the marines are not only paid, but clothed by the Government, while the sailor purchases his own clothing from his pay.

There is another consideration which I think ought to have influence in determining upon this subject, and therefore it is that I am desirous of the information. It cannot be unknown to the Senate, that there is often a scarcity of seamen, and difficulty is experienced in promptly manning our vessels of war for sea: any measure calculated to remove or lessen this inconvenience, without injury to the service, ought therefore to receive the favorable regard of this body. One of our larger vessels of war, destined for a three years' cruise in the Mediterranean, Pacific, or elsewhere, will carry with her about a hundred marines; they will continue to serve as marines; and as marines, and nothing but marines, they will return to this country. Let, however, the same number of landmen be sent instead of marines; let them be taught and exercised in the use of the musket, if necessary; but let them at the same time perform all the ordinary duties of sailors, and at the end of a three years' voyage they will return, not mere musket-men but expert and

able seamen; you will thus obtain an annual increase of seamen for your naval service, and that of the very best materials too—a matter of some consequence, I conceive, not only to the interests of the navy, but of the country. I have been led to these observations, sir, because of the opposition to the inquiry proposed by me, and in justification of my views; whether wrong or right, I must leave for others to judge.

While I am up, I will say a few words with regard to the last branch of the inquiry: whether seamen cannot be employed in lieu of marines at our naval stations. The marine corps, as at present established, is both a naval and military body. When at sea, it is subject to the regulations made for the navy; when on land, it is subject to the rules and articles of war for the government of the army; so that its character depends on whether it performs duty on land or water. Now, sir, when on shore, at a naval depot, it is governed by army discipline; when on ship-board, by naval discipline. We know that our navy yards are intrusted to the charge of a naval officer of rank, generally, I believe, if not always, a post-captain; marines are detailed to perform garrison duty, in guarding and protecting the public works and property. But, sir, in consequence of marines being soldiers on land, they are not, as I understand, subject to the orders of the commandant of the station, and details for duty are therefore made by request, not by command of this officer. Two separate and independent commands, then, exist at the same place, with no common superior. This is inconsistent with my ideas of military subordination and regulation. But why may not seamen, whose age or infirmities, from long and faithful service, have rendered them unqualified for active duty on ship-board, serve as guards at these naval depots, instead of marines? They have been accustomed to strict discipline, and it is conceived would be equally vigilant in the discharge of any duty imposed on them; their tried fidelity at sea would furnish a guarantee for their faithful conduct on shore. I wish to know from naval officers if they can be trusted with this duty? If they can, sir, it will furnish an asylum for these hardy veterans of the ocean, much better suited to their tastes and wishes than any naval asylum. They will be rendering service to the Government for their support, and will find a resting-place in their more advanced years, after the dangers and vicissitudes of an active sea-life.

It is known that there are now at the seat of Government many distinguished and experienced officers of the navy. I have availed myself of the circumstance to make the call at this time. The information, when received, will be valuable; no possible injury can grow out of obtaining it; we shall be possessed of light which we do not now possess, to guide us in any measures that may be deemed necessary, with respect to the marine corps. I trust,

SENATE.]

*Mr. Foot's Resolution—Nullification.*

[MARCH, 1850.]

therefore, the Senate will adopt the resolution.

Mr. B. concluded by saying he wished it to be understood that he had no unkind or unfriendly feeling to the corps in making this inquiry; very far from it. He was actuated by different motives. I have the pleasure, said he, to be acquainted with several of its officers, who have heretofore signalized themselves in the service of their country, and will do so again, whenever their country needs their services. But if they are necessary to the navy, let them be subject to naval control, whether at sea or on shore.

Mr. JOHNSTON suggested that the resolution was unnecessary, as the Committee on Naval Affairs had the same power to call on the Secretary of the Navy for this information, through their chairman, that the Senate had. If every committee were to pursue this course, and come to the Senate with resolutions to obtain information which could be as well obtained without any reference to the Senate, it would be constantly engaged in long debates, and the necessary business of the Senate would be obstructed; and a discussion is got up, which shows that gentlemen possess the very information required. The gentleman from Pennsylvania (Mr. BARNARD) had convinced the Senate that he is already in possession of all the information required in his resolution.

After a few observations from Messrs. WOODBURY, and SMITH, of Maryland,

Mr. BARNARD observed that, when he offered this resolution, he did not apprehend that any circumstances would arise which could possibly lead to a discussion; and, therefore, the remarks of the gentleman from Louisiana were not applicable to him. Farther, as the President of the United States had recommended the reorganization of the marine corps, it being of a mixed character, we may naturally presume that all the facts on which this paragraph was predicated were in his possession, and may now be obtained from the Secretary of the Navy.

Mr. HAYNE suggested that, as the subject had relation to two committees—those on military and naval affairs, he thought it proper that the gentleman would designate the one to which he would refer the answer, when received. If left between two committees, it might fall through.

Mr. BARNARD said he had no hesitation in naming the committee to which he would refer the answer to his resolution. He was willing to refer it to the Committee on Naval Affairs.

The resolution was then agreed to.

THURSDAY, March 4.

*Mr. Foot's Resolution—Nullification.*

Mr. JOHN M. CLAYTON, of Delaware, said: I come now, sir, to consider a subject which has been discussed in connection with this—the right of a State to regulate her conduct by the

judgment of her own self-constituted tribunals, upon the validity of an act of Congress in opposition to the solemn decisions of the Supreme Court of the United States: and my remarks upon it will be chiefly in reply to gentlemen who have gone before me. I confess I do not discover why the power of deciding any, and every question, growing out of any circumstances in which a State may conceive her sovereignty impugned, is not translated to her own tribunals by the same train of argument which induces the conclusion that she may nullify an act of the Federal Legislature without the aid of the Federal Judiciary. We know—we are so taught by memorials on our files—that the doctrine is very current in some States of the West, that the public territory within their limits is their own; and we have been threatened that, when the population flowing westward has transferred the balance of power beyond the Alleghany, or when, as one in this debate has phrased it, "the sceptre has departed from the old thirteen forever," we shall find the rights of the new States asserted and maintained, if not by the force of numbers here, at least by the force of arms at home. In that case, too, it is said, that to us distance will be defeat. State sovereignty and State rights constitute the very war cry of a new party in this country. I would myself be among the last to infringe upon the constitutional powers of the States. But how far will the new doctrines on the subject carry us? Some who have engaged in this discussion have avowed the opinion that our claim to the public lands is inconsistent with the paramount rights of the Western States, and that, upon the fundamental principles of Government, the domain within their chartered limits is the property of these new grantees. Others, who stand among the boldest champions of the principle that a sovereign State may constitutionally and lawfully enforce her declarations against the validity of an act of Congress, and nullify it whenever by her judgment it is "deliberately, plainly, and palpably unconstitutional," repudiate the whole doctrine of State supremacy, and State title, when we touch these claims to the public lands. The rule works badly then. The two positions assumed by the same reasoner are repugnant to each other. You cannot claim by virtue of your State sovereignty to nullify an act of Congress, and yet deny to another State the right, by a similar operation, to tear out of your statute book the leaf containing the Virginia grant, as well as that which bears upon it the act of Congress declaring the uses of that grant. By the grant and the act, the estate ceded is "for the common benefit." The new sovereigns, within whose dominions the estate is situated, asserting their power to decide all questions which, in their judgment, touch their sovereignty, may nullify both, and make the land theirs; or, if they cannot, how can any other of these sovereigns nullify a tariff law, or an act for internal improvement, which the Fed-

MARCH, 1836.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

eral Judiciary adjudges to be valid? The gentleman from Tennessee says that he will admit that the Supreme Court is the final arbiter in all cases in law and equity arising under the constitution, and the laws of the United States made in pursuance of it. But I am not satisfied with this limitation. The words of the constitution are, "The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish." Then this general transfer of power is explained by the second section of the same article: "The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States, between a State and citizens of another State, between citizens of different States, between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects." All these words of the deed are in full force, except so far as it has been altered by the single amendatory article to prevent suits against one of the United States by citizens of another State, or by citizens or subjects of any foreign State. The instrument then contains no qualification of the judicial power restricting its exercise to cases arising out of laws made in pursuance of the constitution. The reservation is an inadvertent interpolation in the instrument, and the power granted extends to laws of the United States, whether constitutionally or unconstitutionally enacted. It will be seen, too, that the United States must "be a party to controversies" concerning a tariff law, as well as to those which affect the right to the public domain, or any other question touching State sovereignty; and that, if there be no authority in the instrument by which the judicial power can be extended to the former class of controversies, there is none to extend it to the latter class, or any case which a single State may consider as presenting an infraction of her own powers. The gentleman from Kentucky, (Mr. ROWAN,) and other Senators, have contended that a State cannot surrender any portion of her sovereignty, and we have been asked to produce an instance in which sovereignty has submitted itself to any judicial tribunal. Those who formed the constitution, in their recommendatory letter, signed by Washington, on the 17th of September, 1787, inform us that "it is obviously impracticable in the Federal Government of these States to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all." The gentleman from Tennessee, in order to explain and construe the constitution, re-

ferred to the brief enumeration contained in this letter, of the specific objects which made it necessary to establish this Government. I refer to the same authority to overthrow the doctrine which regards all the rights of independent sovereignty in each of the States, and to prove that some of those rights were, in the view of the convention, ceded to provide for the general welfare. States are not self-existent; they are created by the people for their benefit. Those who have conferred State power can take it away; and for their own good they have transferred a portion of this mysterious principle of sovereignty, which troubles gentlemen so much, to another place. They have transferred a portion of the judicial power to the Supreme Court, which acts as an impartial umpire, and not as an adversary party deciding his own cause, as is erroneously supposed by some reasoners here. The gentleman from Tennessee says the Federal Judiciary is, when a question of State rights is before it, a portion or part of one of the parties, created by the Legislative and Executive branches of the General Government, responsible to that Government alone, and liable to the imposition of destructive burthens by that party. Even if all this were correct, it would be a sufficient answer to it, when discussing this question, to reply that the States had agreed that the arbiter should be thus created and thus responsible, having signed the arbitration bond deliberately, and with a full knowledge of the consequences. But when we look into the instrument, we find that the States, by their Representatives in the Senate, must first consent to the appointment of the arbiter, or he is not lawfully chosen. They can challenge for cause, and they can challenge peremptorily. By refusing to consent to appointments, they might in time vacate every seat on the whole tribunal. By the Legislative power of their immediate Representatives in the Senate, responsible to the States as their only masters, they can always prevent the imposition of oppressive burthens on their common arbiters. They alone can try these arbiters on impeachment for misbehavior, and without impeachment those arbiters cannot be removed from office. The Senator from Kentucky objects to the Federal Judiciary, that a majority in Congress may by law increase the number of judges, and thus oppress the minority when they please. It has been said, too, that large States, with a great representation in Congress, such as New York and Pennsylvania, combining with others, may, by their superior vote, so far increase the number on the bench as to oppress and destroy the sovereignty of the lesser States. If the objection has any weight, it is one which could be made to our whole system of republican Government. We are ruled by majorities; and if the majority of this nation should become radically corrupt, I admit that the Government will soon fall. But I have sufficient reliance on the virtue and good sense of the people, whether

living in large or small States, to believe that no attempt will ever be deliberately made by a majority in either, to destroy the independence and legitimate powers of the other. And I feel no apprehensions on this subject, for other reasons. Let us inquire into the mode of operating. Supposing now, (to make out the gentleman's case,) that the large States wickedly conspire to ruin the small ones. New York, Kentucky, Ohio, Pennsylvania, Virginia, and North Carolina, being (as would be so probable!) united for this end, carry a bill through the other House to double the number of judges. Suppose, too, that they had by their votes elected a President who would second their views. When the bill comes before the Senate, if the small States understand your object, they, having an equal representation here, secured by the only provision in the constitution which numbers can never change, vote you down at once; and your combination (as other combinations may be) is consigned to

—"that same ancient vault,  
"Where all the kindred of the Capulets lie."

But suppose the Senators representing the small States here, not suspecting mischief, but relying on your integrity, suffer the bill to pass. Your President being in the plot, as we will, for the sake of argument, suppose, it becomes a law. What then? The bench is not yet filled. The *modus operandi* requires that he should nominate, and we should consent, to the appointment of the men who are to adjudge away our independence. We might be slow to suspect our old friends of dishonest purposes, but we can learn some things if you give us time. When you bring out your nominations, we cannot fail to understand your plan. You are caught at once, *flagrante delicto*, and we check you in the Senate, by rejecting all nominations which do not please us. We have two chances to put an effectual veto on your plot, and our veto is a very different affair from your State veto on an act of Congress. However thankful, therefore, we may be for the kindly apprehensions expressed for our welfare, we say that we are not yet alarmed. We cannot see, with the honorable gentleman from Tennessee, that the States have been guilty of either folly or weakness in creating such a tribunal as we conceive the Supreme Court of the United States to be—nor do we think with him, that, by the easiest operations imaginable, this creature is so competent to the destruction of its creators.

But whatever may have been the opinion of honorable gentlemen, the folly of the people of these States in creating such a tribunal, or however incompetent it may appear to decide these matters, the question still recurs, Is there any other forum established with co-extensive or with appellate powers? If so, what is it? There ought not to be a wrong without a remedy; and the interest and safety of all require the existence of some arbiter to decide contro-

versies. We are warned, however, that if, by the constitution, there be not some express grant of power for this purpose, the States and the people still reserve it. On the other hand, if the grant to the Federal Judiciary be express, the States have not reserved it, and can create no other without forming a new constitution or violating this. Sir, I listened with deep interest to the development of what I thought was announced as a new discovery on this subject. I will consider that adverted to, and recommended, by the gentleman from Tennessee, (Mr. GRUNDY.) After conceding to the Federal Judiciary the powers of a common umpire, to decide on the constitutionality of all Congressional enactments made in pursuance of the constitution, he informed us that there was another tribunal to which a State might resort, when oppressed by what she considered to be a plain, palpable, and dangerous violation of the constitution, without throwing herself out of the Union. He admitted that the Legislature of the State was not this tribunal. That might be misled. He beats the ground, then, which was occupied by the gentleman from South Carolina, (Mr. HAYNE,) but himself takes a new position, not less dangerous. For he informed us that a State convention might be called, and that might nullify the oppressive law; after which, he thought Congress must acquiesce by abandoning the power. The amount of this is, that one State is to govern all the rest, whenever she may choose to declare, by convention, that a law is unconstitutional. The end of this, we say, is war—civil war. We admit that a State convention may pronounce any law to be unconstitutional, as the Legislature of Virginia did in '98. But the mere declaration comes to nothing, unless it can be enforced. You may declare a law unconstitutional, and so can I. But what of that? It amounts only to this: we have full freedom of speech in this country, may advocate what opinions we please, and peaceably endeavor to impress them upon others. But the gentleman says this doctrine does not lead to war. If Congress will not submit to the State, he thinks there is still a complete political salvo in another tribunal, and that is a convention of the States, to be called under the provisions of the constitution. The State, then, must exert herself until Congress, two-thirds deeming it necessary, under the fifth article, shall propose amendments to the constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths of them, shall be valid to all intents and purposes, as part of the constitution. So far this does not contravene the doctrine which we advocate, and which the Senator from New Hampshire, if I rightly understood him, after much preface, and with some "slips of prolixity," finally settled down upon

MARCH, 1880.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

as a part of the true orthodox creed. The right to amend the constitution has never been denied. This was a part of the political platform upon which my honorable friend from Missouri (Mr. BARRON) invited you to come and stand with us. If the convention of the States should assemble and decide by a majority of three-fourths against the State, the gentleman from Tennessee says the State must submit. But if they decide otherwise, or do not decide at all, Congress must submit to the State. Without assenting to this last conclusion, which appears to be arbitrarily assumed, I will only inquire, if this be so, how is this tribunal to save us from civil war? The answer is, only by so amending the constitution, as to warp it to suit the declarations of the State convention. This is an excellent remedy for the complaint of the State, but rather difficult to procure. If this is the sovereign panacea which the honorable Senator from Tennessee has discovered for healing the diseases of the South, sir, I fancy she will agree with me in commending her physician for his ingenuity in finding out the ingredients of the bolus, but she will still think they are too hard to be obtained to render the prescription valuable to her. With less experience, I would recommend to a State groaning under the operation of a law which she deems unconstitutional, to apply first to the Federal Judiciary, where she will generally obtain relief, if her complaint be not hypochondria or imaginary ill. If she fail there, let her pour her complaints into the ears of her sisters, and use all constitutional means to procure a repeal of the obnoxious law. A bare majority of Congress will be sufficient to give her relief in this way. Do you object that Congress will probably persevere in their course, and refuse to repeal the law they have enacted? It may be so; and if so, their constituents, being a majority of the people, must concur with them, that the law is not only constitutional, but salutary, or they would, by the exercise of the elective franchise, remove such unworthy agents of their sovereign will. If they do concur with their Representatives, and uphold them in their refusal to repeal the law, no matter how often by any other power than the Federal Judiciary declared to be unconstitutional, in my humble judgment you will hardly persuade three-fourths of them to assemble for the purpose of altering their constitution, and depriving their own agents of the power of acting on the subject.

It comes at last, then, to this—that we have no other direct resource, in the cases we have been considering, to save us from the horrors of anarchy, than the Supreme Court of the United States. That tribunal has decided a hundred such cases, and many under the most menacing circumstances. Several States have occasionally made great opposition to it. Indeed, it would seem that in their turn most of the sisters of this great family have fretted for a time, sometimes threatening to break the

connection and form others; but in the end, nearly all have been restored, by the dignified and impartial conduct of our common umpire, to perfect good humor. Should that umpire ever lose its high character for justice and impartiality, we have a corrective in the form of our Government; but if it is to be had only by a calm and temperate appeal to the judgment and feelings of the whole American people, it can never be obtained by such addresses and resolutions as those of Colleton or Abbeville. Reason receives not in place of argument violent denunciations or furious appeals to party and passion. During a period of four or five years past, the complaints of the South have, for this reason, met with a cold reception in almost every other section of the Union. They have been loud and deep; but they have been evidently regarded as the transient effusions of party feeling, coming, as they too often did, couched in language of bitter vituperation, with the now stale and despicable charges of "coalition, bargain, and corruption"—that vile and putrescent stuff which has at length, as the Senator from Massachusetts truly stated, alonged off and gone down into the kennel forever. The course pursued was exactly that which was best calculated to make the whole alleged grievances, if real, irremediable. Those who loved and admired the character of the Statesman of the West, indignant at the calumnies with which he, as they saw, was so unjustly assailed, often regarded the complaints which came with them as mere secondary considerations, brought in to aid a personal attack. On the other hand, many of those who affected to accredit these calumnies for political effect, in their hearts never sincerely believed any part of the story of Southern sufferings, thinking perhaps that they knew best what weight was to be attached to the political falsehoods which commonly accompanied them. However different their objects, they were really on the same chase; but to the Southern huntsman the game taken has been of no benefit. From a recent demonstration, we perceive that the Southern complaint is now not even deemed worthy of a hearing. Sir, when I witnessed the manly and candid manner in which the honorable Senator from South Carolina on my right (Mr. SMITH) spoke of the grievances of his constituents, when I saw him evidently soaring above mere party feeling, menacing none, denouncing none, and touching with all the delicacy which characterizes him, the subjects in difference between us, the reflection forced itself irresistibly on my mind, how different might have been the reception of these complaints, had they always come thus recommended. South Carolina, though erring in a controversy with her sisters, would by all have been believed to have been honestly wrong; and if, under such circumstances, she should ever throw herself out of the pale of the Union in consequence of such a misconception of the constitution as we have endeavored to

prevent, I would rather see my own constituents stripped of the property acquired under the protection furnished by the Government to their honest industry, than compelled by any vote of mine here to drive the steel with which we should arm our citizens into the bosoms of that gallant people. And I will now say, without meaning to express any further opinion on this delicate subject, that, for myself, whenever pounds, shillings, and pence, alone, shall be arrayed against the infinite blessings of the Union, I shall unhesitatingly prefer the latter, for the simple reason that I can never learn how to "calculate its value."

FRIDAY, March 5.

*Abolition of Duties, Taxes, &c.*

The Senate, on motion of Mr. BENTON, proceeded to the further consideration of the bill, introduced by himself, for the abolition of sixteen millions of duties, &c., &c.

[When this subject was last under consideration, a question of order was raised by Mr. FOOT, of Connecticut, whether, on account of a section of it, which proposed to raise the duty on certain articles, this bill was within the constitutional power of the Senate to originate it; which question the Vice President, not choosing to exercise his prerogative of deciding, had submitted to the decision of the Senate.]

Mr. BENTON declined saying any thing on this question, his only object being to have a decision one way or the other, that his bill might be advanced so as to take the usual course of bills thus introduced.

The yeas and nays having been required, and ordered to be taken, on the question of order—

Mr. WEBSTER suggested that it could hardly be expected that, if a question of this importance, in a constitutional view, was to be gravely decided upon a point of order, it could be so without some discussion. This discussion, he thought, might well be avoided, at present, by the gentleman's withdrawing his bill, or modifying it so as to take out the feature excepted to.

The VICE PRESIDENT said that the bill might be withdrawn by the gentleman who introduced it, with the unanimous consent of the Senate, but not otherwise.

Mr. BENTON then asked leave to withdraw the bill.

No objection being made, the bill was withdrawn by Mr. BENTON from the table of the Senate.

THURSDAY, March 11.

*Heirs of Robert Fulton.*

The bill to recompense the heirs of Robert Fulton, deceased, was read the third time.

The question being on the passage of this

bill, which proposed the grant of a township of land to the heirs of Robert Fulton, in consideration of benefits rendered by him to the country, the yeas and nays thereon were required by Mr. FORSYTH, with the view that the decision, involving a question of much importance on constitutional grounds, should be a solemn one.

Whereupon arose a debate of much interest, and, in a constitutional view, of much importance. The gentlemen who engaged in the debate were, Mr. FORSYTH, Mr. LIVINGSTON, Mr. BROWN, Mr. BARTON, Mr. TAZEWELL, Mr. SMITH of Maryland, Mr. JOHNSTON of Louisiana, Mr. HAYNE, Mr. SMITH of South Carolina, Mr. SANFORD, and Mr. NOBLE.

The question being finally taken on ordering the bill to be engrossed for a third reading, it was decided as follows:

YEAS.—Messrs. Barton, Chambers, Dudley, Johnston, Knight, Livingston, Robbins, Sanford, Willey—9.

NAYS.—Messrs. Adams, Barnard, Bell, Benton, Brown, Burnet, Chase, Dickerson, Ellis, Foot, Forsyth, Frelinghuysen, Grundy, Hayne, Hendricks, Holmes, Iredell, Kane, King, McKinley, McLean, Marks, Naudain, Noble, Ruggles, Seymour, Smith of S. C., Sprague, Tazewell, Troup, Tyler, White, Woodbury—33.

So the bill was rejected.

FRIDAY, March 12.

*Louisville and Portland Canal.*

The bill to authorize a subscription of stock on the part of the United States, in the Louisville and Portland Canal Company, was taken up, and, after considerable debate, in which the bill was advocated by Messrs. HENDRICKS, JOHNSTON, and ROWAN, and was opposed by Messrs. TAZEWELL and HAYNE, it was ordered to be engrossed for a third reading by the following vote:

YEAS.—Messrs. Barnard, Barton, Benton, Burnet, Chambers, Chase, Dudley, Foot, Grundy, Hendricks, Johnston, Kane, Livingston, McLean, Marks, Naudain, Robbins, Rowan, Ruggles, Seymour, Silabee, Smith of Md., Willey—23.

NAYS.—Messrs. Adams, Adams, Bell, Brown, Dickerson, Ellis, Forsyth, Frelinghuysen, Hayne, Holmes, Iredell, Knight, Smith of S. C., Sprague, Tazewell, Troup, Tyler, White, Woodbury—18.

[The bill directed an additional subscription, on the part of the United States, to the stock of the company, for one thousand shares, at one hundred dollars each.]

Adjourned to Monday.

MONDAY, March 15.

*Mr. Foot's Resolution—Nullification.*

Mr. LIVINGSTON said: I now approach a graver subject—one on the true understanding

MARCH, 1890.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

of which the Union, and of course the happiness of our country, depends. The question presented is, that of the true sense of that constitution which it is made our first duty to preserve in its purity. Its true construction is put in doubt; not on a question of power between its several departments, but on the very basis upon which the whole rests; and which, if erroneously decided, must topple down the fabric raised with so much pain, framed with so much wisdom, established with so much persevering labor, and for more than forty years the shelter and protection of our liberties—the proud monument of the patriotism and talent of those who devised it, and which, we fondly hoped, would remain to after ages as a model for the imitation of every nation that wished to be free. Is that, sir, to be its destiny? The answer to that question may be influenced by this debate. How strong the motive, then, to conduct it calmly; when the mind is not heated by opposition, depressed by defeat, or elated with fancied victory, to discuss it with a sincere desire, not to obtain a paltry triumph in argument, to gain applause by tart reply, to carry away the victory by addressing the passions, or gain proselytes by specious fallacies, but, with a mind open to conviction, seriously to search after truth—earnestly, when found, to impress it on others. What we say on this subject will remain; it is not an every-day question; it will remain for good or for evil. As our views are correct or erroneous; as they tend to promote the lasting welfare, or accelerate the dissolution of our Union; so will our opinions be cited as those which placed the constitution on a firm basis, when it was shaken or deprecated, if they should have formed doctrines which led to its destruction.

With this temper, and these impressions of the importance of the subject, I have given it the most profound, the most anxious, and painful attention; and differing, as I have the misfortune to do, in a greater or less degree, from all the Senators who have preceded me, I feel an obligation to give my views of the subject. Could I have coincided in the opinions given by my friends, I should most certainly have been silent; from a conviction, that neither my authority nor my expositions could add any weight to the arguments they have delivered.

My learned and honorable friend, the Senator near me, from South Carolina, (Mr. HAYNE,) comes, in the eloquent arguments he has made, to the conclusion, that whenever, in the language of the Virginia resolutions, (which he adopts,) there is, in the opinion of any one State, "a palpable, deliberate, and dangerous violation of the constitution by a law of Congress," such State may, without ceasing to be a member of the Union, declare the law to be unconstitutional, and prevent its execution within the State; that this is a constitutional right, and that its exercise will produce a constitutional remedy, by obliging Congress either to repeal the law, or to obtain an explicit grant

of the power which is denied by the State, by submitting an amendment to the several States, and that, by the decision of the requisite number, the State, as well as the Union, would be bound. It would be doing injustice, both to my friend and to his argument, if I did not add, that this resort to the nullifying power, as it has been termed, ought to be had only in the last resort, where the grievance was intolerable, and all other means of remonstrance and appeal to the other States had failed.

In this opinion I understand the honorable and learned chairman of the Judiciary Committee (Mr. ROWAN) substantially to agree, particularly in the constitutional right of preventing the execution of the obnoxious law.

The Senator from Tennessee, (Mr. GRUNDY,) in his speech, which was listened to with so much attention and pleasure, very justly denies the right of declaring the nullity of a law, and preventing its execution, to the ordinary Legislature, but erroneously, in my opinion, gives it to a convention.

My friend from New Hampshire, (Mr. WOODBURY,) of whose luminous argument I cannot speak too highly, and to the greatest part of which I agree, does not coincide in the assertion of a constitutional right of preventing the execution of a law believed to be unconstitutional, but refers opposition to the unalienable right of resistance to oppression.

All these Senators consider the constitution as a compact between the States in their sovereign capacity; and one of them (Mr. ROWAN) has contended that sovereignty cannot be divided; from which it may be inferred that no part of the sovereign power has been transferred to the General Government.

The Senator from Massachusetts, in his very eloquent and justly admired address on this subject, considers the Federal constitution as entirely popular, and not created by compact, and, from this position, very naturally shows, that there can be no constitutional right of actual resistance to a law of that Government, but that intolerable and illegal acts may justify it on first principles.

However these opinions may differ, there is one consolatory reflection, that none of them justify a violent opposition given to an unconstitutional law, until an extreme case of suffering has occurred. Still less do any of them suppose the actual existence of such a case.

But the danger of establishing on the one hand a constitutional veto in each of the States, upon any act of the whole, to be exercised whenever, in the opinion of the Legislature of such State, the act they complain of is contrary to the constitution; and, on the other, the dangers which result to the State Governments by considering that of the Union as entirely popular, and denying the existence of any compact; seem, both of them, to be so great, as to justify, and indeed demand, an expression of my dissent from both.

The arguments on the one side, to show that



the constitution is the result of a compact between the States, cannot, I think, be controverted; and those which go to show that it is founded on the consent of the people, and, in one sense of the word, a popular Government, are equally incontrovertible. Both of the positions, seemingly so contradictory, are true, and both of them are false—true, as respects one feature in the constitution; erroneous, if applied to the whole.

These States, during the short period of the contest with Great Britain, which preceded the Declaration of Independence, although colonies in name, were, in fact, independent States, and, even at that early period, their political existence partook of this mixed character.

By a popular or consolidated Government, I understand one that is founded on the consent, express or implied, of the people of the whole nation; and which operates in all its departments directly upon the people.

By a federative Government, as contradistinguished from the former, I mean one composed of several independent States, bound together for specific national purposes, and relying for the efficiency of its operations on its action upon the different States in their political capacity, not individually upon their citizens.

In the incipient state of our political existence, we find traces of both of these features. When the oppressive acts of the mother country had excited the spirit of resistance, we find the colonies sending delegates to a General Congress; and, without any formal federative contract, that Congress assumed, by general consent, and exercised powers which could strictly be classed only under the head of such as belong to a consolidated Government. In order to effect a non-importation of goods from Great Britain, instead of operating through the agency of the separate colonies, and recommending that they should use their influence or authority to effect the object, the Congress addressed their recommendation to the merchants of all the united colonies individually. It is true this was only in the shape of a recommendation, not an imperative order; but this makes no difference in the argument: it was still an action of the Government, addressed to individuals of the colonies, not through the medium of the colonial authority, as would have been the case under a strictly federative compact. This was on the 19th of September, 1774. On the 27th of the same month, they proceeded more directly, and resolved that there should be no goods imported after a certain day, and that those so imported should not be used or sold; and a few days after, a resolution of non-exportation was entered into; the negotiation of British bills was prohibited, and besides levying and equipping a naval and land force on the continental establishment, they erected a Post-Office Department, emitted money, and declared that persons refusing to receive the bills, on conviction, be deemed,

published, and treated as enemies of the country. All these acts were, in a greater or less degree, direct operations of the general temporary Government, upon the citizens, and, in that degree, were proofs of its character as a mixture of popular with a federative Government. After all these acts, and many more of the same nature, came the Declaration of Independence, in which they jointly declare themselves independent States, but still, it would seem, as one nation. In the preamble they assert the right, as "one people," to take the station, not the stations, to which they are entitled. The whole instrument complains of illegal and oppressive acts against them jointly.

After this decisive act, for more than two years the States, thus declared free, remained connected by no other bond than their common love of liberty, and common danger, under the same authority of a general Congress, which continued to exercise all the powers of a mixed kind, which, if they had been formally conferred, would have constituted a Government which could not properly be called either purely a federation of States, retaining all their sovereignty, or a consolidated Government, to which it had been surrendered.

The Confederation was at length entered into. This was certainly a compact between the States; but, among a number of stipulations strictly federative, contained others which gave to the Congress powers which trench upon the State sovereignties; to declare war and make peace; enter into treaties binding on the whole; to establish courts of admiralty, with power to bind the citizens of the States, individually, in cases coming under that jurisdiction; to raise armies, equip fleets, coin money, emit bills of credit, and other similar powers. The defects of this bond of union are well known; among these the most prominent was the want of a power, acting directly on the citizens, to raise a revenue, independent of the agency of the States. And it is a most instructive fact, that the common danger, though at times extremely imminent, during the continuance of the war, could never produce any kind of attention to the requisitions of Congress; yet there was no want of patriotism or attachment to the cause. Each State then possessed, on the subject of the requisition, the practical power of giving a veto to the operations they disliked, by refusing its quota; and the power was abused, and will always be abused, whenever it is the interest of the State possessing it to exercise that right.

In the Federal constitution this combination of the two characteristics of Government is more apparent. It was framed by delegates appointed by the States; it was ratified by conventions of the people of each State, convened according to the laws of the respective States. It guarantees the existence of the States, which are necessary to its own; the States are represented in one branch by Sena-

MARCH, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

tors, chosen by the Legislatures; and in the other, by Representatives taken from the people, but chosen by a rule which may be made and varied by the States, not by Congress—the qualification of electors being different in different States. They may make amendments to the constitution. In short, the Government had its inception with them; it depends on their political existence for its operation; and its duration cannot go beyond theirs. The States existed before the constitution; they parted only with such powers as are specified in that instrument; they continue still to exist, with all the powers they have not ceded; and the present Government would never, itself, have gone into operation, had not the States, in their political capacity, have consented. That consent is a compact of each one with the whole; not, as has been argued, (in order to throw a kind of ridicule on this convincing part of the argument of my friend from South Carolina,) with the Government which was made by such compact. It is difficult, therefore, it would appear, with all these characters of a federative nature, to deny to the present Government the description of one founded on compact, to which each State was a party; and a conclusive proof, if any more were wanted, would be in the fact, that the States adopted the constitution at different times, and many of them on conditions which were afterwards complied with by amendments. If it were strictly a popular Government, in the sense that is contended for, the moment a majority of the people of the United States had consented, it would have bound the rest; and yet, after all the others, except one, had adopted the constitution, the smallest still held out; and if Rhode Island had not consented to enter into the confederacy, she would, perhaps, at this time, have been unconnected with us.

But with all these proofs (and I think them incontrovertible) that the Government could not have been brought into being without a compact, yet I am far from admitting that, because this entered so largely into its origin, therefore there are no characteristics of another kind, which impress on it strongly the marks of a more intimate union and amalgamation of the interests of the citizens of the different States, which gives to them the general character of citizens of the united nation. This single fact will show, that the entire sovereignty of the States, individually, has not been retained: the relation of citizen and sovereign is reciprocal. To whatever power the citizen owes allegiance, that power is his sovereign. There cannot be a double, although there may be a subordinate fealty. The Government, also, for the most part, (except in the election of Senators, Representatives, and President, and some others,) acts in the exercise of its legitimate powers directly upon individuals, and not through the medium of State authorities. This is an essential character of a popular Government.

I place little reliance on the argument which has been mostly depended on, to show that this is a popular Government: I mean the preamble, which begins with the words, "We, the people." It proves nothing more than the fact, that the people of the several States had been consulted, and had given their consent to the instrument. To give these words any other construction, would be to make them an assertion directly contrary to the fact. We know, and it never has been imagined or asserted, that the people of the United States, collectively, as a whole people, gave their assent, or were consulted in that capacity; the people of each State were consulted, to know whether that State would form a part of the United States, under the articles of the constitution, and to that they gave their assent, simply as citizens of that State.

This Government, then, is neither such a federative one, founded on a compact, as leaves to all the parties their full sovereignty, nor such a consolidated popular Government, as deprives them of the whole of that sovereign power. It is a compact, by which the people of each State have consented to take from their own Legislatures some of the powers they had conferred upon them, and to transfer them, with other enumerated powers, to the Government of the United States, created by that compact; these powers, so conferred, are some of those exercised by the sovereign power of the country in which they reside. I do not mean here, the ultimate sovereign power residing under all Governments, democratic or despotic, in the people; a sovereignty which must always in theory exist, however its exercise may by foreign or domestic power be repressed; but I mean that power to regulate the affairs of a nation, which resides in its Government, whatever the form of that Government may be; and this may be, and generally is, distributed into several hands. As to all these attributes of sovereignty, which, by the federal compact, were transferred to the General Government, that Government is sovereign and supreme; the States have abandoned, and can never reclaim them. As to all other sovereign powers, the States retain them.

But the States have not only given certain powers to the General Government, but they have expressly given the right of enforcing obedience to the exercise of those powers. They have declared that "the constitution and the laws which shall be made in pursuance thereof shall be the supreme law of the land, any thing in the constitution or laws of any State to the contrary notwithstanding." And they have also expressly consented, that the Judiciary of the United States shall have cognizance of all cases coming under those laws. Here the words of the compact provide for the means by which controversies coming under it are to be decided; but this must be taken with the understanding that they are controversies arising not only under the laws of the United

States, (including the constitution and treaties,) but they must be between parties over whom the constitution has given jurisdiction to the courts. Every case, then, of this description, must be submitted to the Judiciary of the United States; and as, in all cases, the Constitution of the United States is paramount in authority to a law of the United States, and as both of them are so to a law of the State, the Supreme Court of the United States must, of necessity, when a contrariety between these authorities is alleged, in any case legally before it, determine that question, and its determination must be final; the parties must be bound; the States to which they belong must be bound; for they, in this compact, have agreed that their citizens shall be so. But it is asked, Suppose the law of Congress is palpably contrary to the constitution, and endangers the liberties of the country, must the State submit? If the question be, whether the State can constitutionally resist, there is but one answer. She has by the constitution consented that the Supreme Court shall finally decide whether this be constitutional or not. If the question be, of the right which all people have to resist ruinous oppression, the answer is as clear; and I should be the last man in the world to contravene the existence of that unalienable right. But that is not the question; it is of a constitutional right, whenever, in the opinion of the Legislature, (or as some think, of a convention of the people of any one State,) a law of Congress is palpably unconstitutional, such State has a right, under the constitution, not only to declare the act void, but to prevent its execution within the State, until Congress shall propose a declaratory amendment to the States, and their decision shall be obtained; and all this without quitting their place in the Union, without disturbing its peace, it is said; but, on the contrary, it is contended, for the purpose of preserving the general compact inviolate. Now, sir, independently of the argument drawn from the express consent of the people of the several States, that in all matters where the Supreme Court have jurisdiction between individuals, they should determine, and must determine, whether a law be unconstitutional; independently of this, and supposing no such powers given to the court, can it be supposed that so essential a feature of the Government, as a positive veto given to, or reserved by each State, upon the operations of the whole, would have been left, not only unprovided for by express words, but without even an ambiguous phrase—a single doubtful word, to hang the argument upon? It is derived solely from the rights attached to the sovereignty of the States, unimpaired by its accession to the Union, indivisible, according to the argument of my learned friend from Kentucky, and always alive and active, (not one of those which he expressively says will keep cold,) and ready to go into operation whenever it is attacked.

I have called it a positive veto on the operations of the whole Government. Is it not so in effect? That the right, when exercised by a single State, can only prevent the execution of the obnoxious law in the State alone which objects to it, does not take from the power the character I have given to it, is apparent. For, if the General Government were under an obligation to desist from executing the law in the opposing State, they must, of necessity, refrain from putting it in force in the others: if it were a tax, because they must be equal; if any other subject of legislation, imposing a burthen or restriction, they could not, in justice, force the others to bear what one was relieved from, nor would the other States submit to so unequal an imposition. The argument, then, supposes a feature in the constitution which certainly is not expressed in it, which, most assuredly, would have been expressed, if it had been intended: for it totally alters its character; puts the power of the Union at the will of any one of its members; and allows it, without risk, to throw off all the burthens of Government at its pleasure. Remember, sir, that I am speaking of a constitutional right, (for that is the one claimed;) a right under the constitution, not over it; a power that may be exercised without incurring any risk, or committing any offence—without forfeiting a place in the Union, or any right or privilege under it. The State has only to resolve, by its ordinary Legislature, or, according to others, in a convention of its citizens, that a law enacted by the General Government is palpably unconstitutional and dangerous, and that it shall cease to operate, and it must cease to operate; and, as an inevitable consequence, it may be resisted by force; as another consequence, if death ensues, it is murder in those who act under the General Government; justifiable homicide in those who resist. Now, sir, would not these serious consequences have presented themselves to the enlightened men who framed this constitution? and, if they did, would not some provision have been made to prevent any illegal exertion of power by the Executive, fraught with such danger? If they had supposed that this was a right reserved, would they not have declared the correlative obligation in the General Government to respect it? For, sir, it is superfluous to say that every right carries with it its correspondent obligation, and that there cannot be two conflicting rights. If, then, the States have a right to prevent the execution of a law, the General Government is under an obligation to refrain from enforcing it; yet, instead of declaring this obligation to respect this reserved right, not the slightest allusion is made to it. On the contrary, when a law is once passed, it is made the duty of the President to execute it. But, by the argument, the law has been passed as constitutional by both Houses of Congress; it has been approved as such by the President; and a judgment has been given by the Supreme Court, declaring it

MARCH, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

to be constitutional, and directing that, in the particular case before them, it shall be executed. The State against whose citizen the judgment is given declares it to be palpably and dangerously contrary to the constitution, and that it is null and void, and shall not be executed? What is to be done? The right of the State, says the gentleman, must be respected; but, unfortunately for the argument, the constitution does not say so; unfortunately, it says directly the contrary. The President is bound by his oath to cause every constitutional law to be executed. But he has approved this law, therefore he believes it to be constitutional; but both Houses have passed it, therefore they believed it so; but the judges have decreed that it shall be executed; therefore, they, too, have believed it to be constitutional. Must the President yield his own conviction, fortified as it is by these authorities, to the opinion of a majority—perhaps a small majority—in the Legislature of a single State? If he must, again I say, show me the written authority. I cannot find it. I cannot conceive it. I am not asking for the expression of the reserved right; I know that they are not enumerated. But I ask for the obligation to obey that right; I ask for the written instruction to the Executive to respect it; I ask for a provision, that nothing but the grossest inattention, or the most consummate folly, could have omitted, if the doctrine contended for be true.

This might have been done by an article in these words: "Whenever, in the opinion of any one State, a law passed by the Congress shall be deemed unconstitutional and dangerous, such State may prevent its execution, and the President and the courts shall forbear to enforce the same; but Congress shall, in that case, if they persevere in thinking the law expedient, submit the question as an amendment to conventions of the States, in the manner prescribed by the constitution." Now, sir, the inquiry cannot be too often repeated, if such had been the intention of those who framed our form of Government, or of those who adopted it, and considered and amended it, would not some expression of this kind have been inserted? and if inserted, would it not have been recommended or adopted? and, if adopted, how long would it have continued in operation? how many votes would have been interposed? how many conventions would have been assembled? Not an embargo, not a restriction, not a declaration of war, not a measure for defence, not a tax or an impost, but would produce a stoppage in the wheels of the political machine; the most pressing operations of Government must be suspended until the amendments are proposed by Congress, until conventions are called in all the States, and they have made their decisions. It is unfortunately no answer to say that this power would not be abused; that the argument supposes it to accrue only in palpable cases. Let the constitutional right be acknowledged, let it be

known that it may be exercised without risk, and local interest will always be strong enough to suggest constitutional scruples; nor will common interest, the incalculable interest of our Union, be a sufficient argument. When was the interest of union more apparent than during the latter years of the revolutionary war, and those which immediately succeeded the peace? Yet, when was the apathy of the States more apparent to the considerations of common good? When were local interests more consulted? When was it more difficult to procure the slender contributions which each State was bound to furnish to the common fund? It is a most important truth, that the existence of the General Government must depend on that feature which permits the exercise of all its legitimate powers directly upon the people, without the intervention of the States. Make that intervention necessary for the execution of those legitimate powers, or permit it to arrest them in cases which the States may deem illegal, and your Government is gone; it changes its character; it becomes, whatever other features you give to it, essentially an inefficient confederation, without union at home, without consideration abroad, and must soon fall a prey to domestic wars, in which foreign alliances will necessarily intervene to complete its ruin. No, sir; adopt this as a part of our constitution, and we need no prophet to predict its fall. The oldest of us may live long enough to weep over its ruins; to deplore the failure of the fairest experiment that was ever made, of securing public prosperity and private happiness, based on equal rights and fair representation; to die with the expiring liberties of our country, and transmit to our children, instead of the fair inheritance of freedom received from our fathers, a legacy of war, slavery, and contention.

But it is asked, will you deny to the States every portion of their former sovereignty? Will you call this, with the Senator from Massachusetts, a strictly popular Government? Will you deny them all right of intervention, and reduce them to the condition of mere corporations? Do you renounce the doctrines for which you contended in 1798, and consider the Supreme Court as the umpire provided in all cases to determine on the extent of State rights? God forbid that I should hold such doctrines. If my friends had stopped at the declaration that they adopted the resolutions of the Virginia Legislature, I should not, perhaps, have thought the difference between us of sufficient consequence to have troubled the Senate with my opinions. For the most part, I coincide in the sentiments of those resolutions; but my friends carried them out into their practical consequences farther than, I think, they warrant; farther, certainly, than I am willing to follow them.

As I understand them, they assert the right of a State, in the case of a law palpably unconstitutional and dangerous, to remonstrate

against it, to call on the other States to co-operate in procuring its repeal, and, in doing this, they must, of necessity, call it unconstitutional, and, if so, in their opinion, null and void. Thus far I agree entirely with the language and substance of the resolutions. This, I suppose, is meant by the expression, interpose for arresting the progress of the evil. I see in those resolutions no assertion of the right contended for, as a constitutional and peaceable exercise of a veto, followed out by the doctrine that it is to continue until, on the application of Congress for an amendment, the States are to decide. If these are the true deductions from the Virginia resolutions, I cannot agree to them, much as I revere the authority of the great statesman whose production they are. I cannot assent to them; and it is because I revere him, and admire his talents, that I cannot believe he intended to go this length. I cannot believe it, also, for another reason. He thought, and he conclusively proved, the alien and sedition laws to be deliberate, unconstitutional, and dangerous acts; he declared them so in his resolutions. Yet, sir, he never proposed that their execution should be resisted; he never uttered or wrote a word that looked like this doctrine, now contended for, of a constitutional right to arrest the execution of the law until amendments could be proposed. The right he asserted, when he alludes to resistance, was one that all acknowledged, that of opposition to intolerable and unconstitutional oppression. Mr. Jefferson, in the Kentucky resolutions, has used a word of equivocal authority, as well as signification: he asserts the right of a State to "nullify" an unconstitutional act. If he means by this any thing more than is contained in the Virginia resolutions, he must apply it to the extreme case of resistance, on the right of which there can be no contrariety of opinion: for Mr. Jefferson does not, if I read him aright, avow, any more than Mr. Madison does, the right now contended for, of a State veto, with its consequences. This, it appears to me, is a more modern invention, and, as I think I have proved, utterly incompatible with the nature of our Government. Was it ever conceived, before the present day, to form a part of it? If it was, why is it not alluded to in any of the debates of the Federal convention which framed, or the State conventions which adopted it? Surely it is of sufficient importance to have attracted attention, either as an advantage or an objection; yet not a word is said about it. Nay, more; if we refer to that luminous exposition of the whole character of the General Government, and of its expected operation, "The Federalist," not a word can be found that favors this idea of a veto, now for the first time set up as a part of our constitution. The constitution, its advocates, its opposers, the great contemporary exposition of its character, the practice under it for forty years, all silent on so important, so fundamental a doctrine!

Is not this a fair, I might say a conclusive argument that it does not exist; that it is what I have indicated it to be, a modern invention! But this is not all: the case of a conflict of authority between the General and State authorities, under the new Government, was one that could not escape the foresight of the authors of "The Federalist." A series of chapters on this, and subjects connected with it, are found in that collection, written by Mr. Madison. Here would have been the place, certainly, to have developed the character and operation of this legal veto, if, in his opinion, it had existed. He could not have been silent on the subject. It is impossible that he could then have held the doctrines which are erroneously, in my opinion, said to be those of his Virginia resolutions. In the 44th number, in arguing the necessity of the article which makes the laws of the United States, made in pursuance of the constitution, paramount to the State constitutions, he says, if the State sovereignty had been left complete in this particular, among other absurd and dangerous consequences, "The world would have seen, for the first time, a system of Government founded on an inversion of the fundamental principles of all Government; it would have seen the authority of the whole society everywhere subordinate to the authority of the parts: it would have seen a monster in which the head was under the direction of the members." And, as more immediately applicable to the present subject, in the 46th number, he gives expressly what he supposes the only remedy for an "unwarrantable," by which he must mean unconstitutional measure. "On the other hand, (he says) should an unwarrantable measure of the Federal Government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand." Now, sir, if the new doctrine were the true one, if the veto were a constitutional measure, now we should hear of it! What more powerful! What more at hand? What more effectual! Why look for any other? Yet this constitutional right, so clearly deducible from the very terms of our national compact, never occurred to the very man whose doctrines, in 1798, are said erroneously, I again repeat, to embrace it. What are the remedies which he there points out? "The disquietude of the people, their repugnance, and, perhaps, refusal to co-operate with the officers of the Union, the frowns of the Executive magistracy of the State, the embarrassments created by legislative devices, which would often be added on such occasions, would oppose, in any State, difficulties not to be despised; would form, in a large State, very serious impediments; and where the sentiments of several adjoining States happened to be in unison, would present obstructions which the Federal Government would be hardly willing to encounter." These were the sentiments

MARCH, 1880.]

*Mounted Infantry Bill.*

[SENATE.]

of Mr. Madison, in 1787; and such, I think, is the true construction of his language in 1798. For he goes on, in the same paper, to follow up the consequences of a perseverance of the Federal Government in unconstitutional measures, into the only result that all agree must, in extreme cases, happen—a resistance by force; and that he may not be misunderstood, makes it analogous to the case of the colonial resistance to Great Britain.

Although, in my opinion, in every case which can lawfully be brought within the jurisdiction of the Supreme Court, that tribunal must judge of the constitutionality of laws on which the question before them depends, and its decrees must be final, whether they affect State rights or not; and, as a necessary consequence, that no State has any right to impede or prevent the execution of such sentence; yet I am far from thinking that this court is created an umpire to judge between the General and State Governments. I do not see it recorded in the instrument, but I see it recorded that every right not given is retained. In an extreme case that has been put, of the United States declaring that a particular State should have but one Senator, or should be deprived of its representation, I see nothing to oblige the State to submit this case to the Supreme Court; on the contrary, I see, by the enumeration of the cases and persons which may be brought within their jurisdiction, that this is not included; in this the injured State would have a right at once to declare that it would no longer be bound by a compact which had been thus grossly violated.

It would be useless affectation to pretend ignorance of the discontent that prevails in an important section of the Union; its language is too loud, too decisive, too menacing, not to have been heard, and heard with the deepest concern. It has already been more than once alluded to, in this debate, in terms of severest censure. I shall not assume that tone, although I cannot but deprecate the light manner in which the greatest evil that can befall us is spoken of, as if it were an every-day occurrence. Arguments for and against the dissolution of the Union are canvassed in the public papers; form the topic of dinner speeches; are condensed into toasts; and treated, in every respect, as if it were "a knot of policy that might be unloosed familiar as a garter." Sir, it is a Gordian knot, that can be severed only by the sword. The band cannot be unloosed until it is wet with the blood of brothers. I cannot, therefore, conscientiously be silent; and, humbly as I think of my influence or powers of persuasion, I should feel myself guilty if they were not exerted in admonition to both parties in this eventful controversy. The tariff is the prominent grievance that excites the discontents in some of the Southern States, and particularly in South Carolina. It is denounced as unconstitutional, injurious to the whole country, ruinous to the South, and beneficial

only to a particular interest in the North and East. My sentiments on this subject may be expressed in a very few words. A decided convert to the free trade system, I think it may be departed from in the few cases in which restrictions may be used, with a hope of producing a relaxation of similar restrictions by a foreign power. I therefore believe the present tariff unwise, unequal, and oppressive in its operations, but I cannot think it unconstitutional. And I consider one of its worst consequences to be, that, when it has been long persisted in, and considered as the settled policy of the nation, so much of the capital and population of the country may be employed in the manufactures protected by it, as to make it a matter of serious calculation whether a sudden and total abandonment of the policy may not produce greater evil to the whole nation than the benefit to be expected from throwing open the trade. With these opinions, on the subject of the Southern discontents, I enter largely into their feelings, and join them in lamenting a policy which operates so distressingly on their prosperity.

TUESDAY, March 28.

*Mounted Infantry Bill.*

Mr. BENTON moved that all the bills preceding bill No. 119 should be postponed, for the purpose of taking up and considering that bill. The Senate agreed to the motion, and that bill was then taken up, and read by the Secretary. It consisted of a single section, and proposed to vest the President with authority to mount and equip ten companies of the army of the United States, to be employed as the public service might require, and appropriated the sum of — dollars for the purchase and equipment of the horses. After it was read, Mr. B. proposed to add a second section, to appropriate the sum of — dollars for purchasing forage for the horses for the remainder of the present year; stating that his object was to keep the appropriations for the different branches of the service distinct and separate. The motion to add the second section was agreed to: and, after stating that he should move, at the proper time, to fill the blank in the first section with thirty-three thousand seven hundred and fifty dollars, and that in the second one with eighteen thousand seven hundred and fifty, he (Mr. B.) entered into a particular examination of the nature of the bill, and advocated its policy and utility. He first remarked upon the terms, or phraseology of the bill, which were to authorize—not to require—the President to cause the ten companies to be mounted; and which gave him a discretion over the number of companies to be mounted, not exceeding the limitation expressed in the bill. Such a discretion was properly vested in the President, who, being charged with the defence of the country, and responsible for the safety of the frontiers, should have

some authority to use the species of force which the occasion required; and that the present President preferred mounted men for the kind of service—defence against Indians—which this bill contemplated, was a fact as well known by the events of his military career as by the communication of his sentiments on the particular subject of this bill. The Missouri Legislature, the officers of the army on the Western frontier, and all the citizens of the West, interested in the question; the President, the Secretary at War, and the Quartermaster General, Jesup, have united their voices in favor of the species of force which this bill contemplates; and the granting of it may justly be considered as one of the highest objects of Western hope and desire. One object of the measure is, to give defence and protection to the trading caravans between Missouri and Mexico—caravans which annually bring home large sums of gold and silver, and now experience continued losses, in lives and property, for want of the species of protection which this bill proposes to give. Another object, and a more extensive one, is to provide an adequate and appropriate defence for the Western frontier, and that in its whole extent, from the Sabine to the Falls of St. Anthony, and thence to Green Bay, at the upper end of Lake Michigan. This line of defence is largely upwards of a thousand miles in length, covering the frontiers of Louisiana, Arkansas, Missouri, Illinois, and the new territory upon the upper Mississippi. To those two objects a third one, also of great importance—the security of the fur trade, now a dangerous pursuit to our own citizens on our own soil—must be added. For all those objects—for the just and necessary defence of the frontiers, the fur-trade, and the Mexican trade—a mounted force is indispensable. The Indians who infest the frontiers, and attack the caravans and traders, are all mounted on fleet and durable horses, which live on grass, and are trained to war and hunting. They come, and go, like Arabs—the attack and the flight being instantaneous. Our soldiers are all on foot, and can oppose no appropriate movements to these sudden and flying assaults. They may repulse an attack, but they cannot pursue, cannot chastise, cannot reconnoitre; cannot venture to quit the column when marching, the camp, or the garrison, when stationary, without danger of being cut off, and that in sight of their companions, who, for want of horses, are unable to get to their relief. The reports of all the officers from the West, and of all the caravans, attest the truth of this distressing fact. The country where these troops are to act is open and champaign. It is a connection of interminable prairies, destitute of large forests, and covered with grass; it is the native theatre for horsemen, the prairies giving them a clear stage for action, and the grass furnishing subsistence for horses, and attracting and supporting game for the subsistence of men. This is the character of the country upon the whole frontier beyond the

Mississippi, and indefinitely to the West. Everywhere—at every point—from the Sabine round to the Wisconsin, the open prairie country approaches the frontier, and lays open the settlements to the danger of inroads from mounted barbarians. Men on foot, pursuing a march on such boundless plains, seem to stand still; Indians, mounted on horseback, gallop round them with impunity. They approach the garrison; kill and scalp men in its view, and gallop off in triumph. A mounted force, on our part, is indispensable. It is the appropriate defence of the Western frontier. The ten companies provided for in the bill will give us that defence. They will make a corps of regular rangers, or land fencibles; such as all Governments have used, and such as we need more than any Government ever did. Every post, and every garrison, from the Gulf of Mexico to the lakes—from Louisiana to Canada—should have its proportion of this mounted corps. When necessary, the companies at different posts may be united, and form an expedition, either to meet and repulse expected incursions of the Indians, or to pursue and chastise marauders, or to visit hostile towns. The service to which the corps can be applied is general and indefinite; it can go wherever the public interest requires. The Western frontier now demands it; but the Southern or Northern frontier may receive its aid when necessary. The horses may form the basis for cavalry, of which the army is now destitute; the men may be learnt the use of the sword and pistol, of which our magazines now contain a useless supply. Some companies of flying artillery may be trained. It will elevate the character of the service, induce better men to enlist, and diminish desertions by giving active and attractive employment. The President may mount the whole corps at once, or less; he has a discretion; he may mount a part now, and the remainder as necessity may seem to require. He may do as he thinks best; but, in my opinion, the whole ten companies will be little enough to guard the extended frontier of the West, and to perform the variety of service for which they are intended. Every year American blood is spilt upon American soil. Every year American citizens are killed and robbed, pursuing a lawful commerce, upon the soil of their country. The road to Mexico is stained with their blood; savage Indians are loaded with their spoils; families are reduced to want. In the region of the fur trade, where the Indians are excited by the British, the destruction of lives and property is horrible. The report of Gen. Clark and Gov. Cass, made at the last session of Congress, estimates the loss of lives, in this trade, at upwards of four hundred; the loss of property at about five hundred thousand dollars. The destruction of lives and property is still going on, and will go on, until the troops of the Federal Government shall make an appearance beyond the Mississippi, calculated to impress respect and fear upon the savage mind. Horses alone will ena-



MARCH, 1880.]

*Mounted Infantry Bill.*

[SENATE.]

ble them to make that appearance. General Ashley, with his mounted men, traverses the continent in safety; goes to the Buenaventura, and Multnomah, and returns in safety. For want of horses our soldiers are pursued, surrounded, insulted, harassed, and assassinated. Read the report of Major Riley, and see what his detachment suffered for want of horses. The mounted force is indispensable; it is the appropriate, and the only appropriate, defence for the West; it is the true and adequate, and the only true and adequate, protection for the fur trade, the Mexican trade, and the whole line of the Western frontier. It is the security, and the only security, for the tranquillity of the frontiers, the preservation of lives, and the protection of two great branches of Western commerce. This being shown; the great fact of the necessity of this species of force being established; I feel confident that the consideration of the expense that may attend it, which is the next point to be examined, will present but little difficulty to the Senate. The mounted force being necessary, the cost of it, I feel persuaded, will not be an overruling consideration, although that cost should be large, when, in point of fact, it will be small, and, in comparison to its object, inconsiderable and insignificant. Five hundred horses will be wanted for ten companies of fifty men each; the price of these horses, and their maximum price, will be fifty dollars each. This will make twenty-five thousand dollars for the purchase of the horses. Their equipment in saddles, bridles, halters, &c., will not exceed seventeen or eighteen dollars each. Seven or eight thousand dollars will defray the expense of equipment; so that the sum proposed for filling the first blank, thirty-three thousand seven hundred and fifty dollars, will meet the first and greatest expense to be incurred. Subsistence is the next item in expense. The Quartermaster General (General Jesup) estimates this item at fifty dollars a year for each horse, which is nearly a dollar a week; but I must differ from him in this estimate, and do it without derogating from his high and established character for correctness, because, living in the country where the horses are to be employed, I have a local knowledge on this subject which he could not possess. I reduce the expense of forage to less than one half of his estimate. I make this reduction upon these data: First. The horses will live upon grass full one-half of the year; and that will reduce the Quartermaster General's estimate one-half. Secondly. The cost of keeping horses, among the farmers in Missouri, is about seventy-five cents a week, including care and attention, as well as food; consequently, soldiers can keep their own for less than a dollar a week, when forage alone is to be paid for; and of that forage, the hay will cost nothing, for the soldiers cut it in the prairies without expense, and haul it in with the garrison teams. Upon these data the annual subsistence of the horses will be nearer to twenty dollars than to

fifty dollars each. I think ten thousand dollars will be enough for their annual forage; but I have proposed to fill the second blank with eighteen thousand, seven hundred and fifty dollars for the remainder of the present year, according to the estimate of the quartermaster, and leave it to time and experience to ascertain the true amount. This will make the total appropriation, for the present year, about fifty thousand dollars. For each subsequent year it will probably be about fifteen thousand dollars, say ten or twelve thousand dollars for forage, and the remainder to supply the waste of horses and equipments. This is nothing compared to the magnitude and variety of the objects which require the expenditure. It is nothing in comparison to the good to be accomplished. It is a grain of sand to a mountain, compared to the annual expenditures for Atlantic objects of defence; compared to the annual expenditures for fortifications for the defence of the seacoast; compared to the annual expenditures for navy yards, lighthouses, and ships of war, for the safety and accommodation of maritime commerce. But, small and inconsiderable as this expenditure for the mounted force appears, there is still another point of view under which it is to be looked at, and which reduces it still lower, and, in fact, annihilates it as an object of expense, and converts it into a piece of economy. It is this: That, for the want of these horses, large sums are now expended in chartering steamboats for moving troops in the Western country, and for volunteer mounted gun men. The infantry have to be transported; and for this purpose steamboats are chartered. They need horsemen, and for this purpose, mounted volunteers are accepted. Every Indian alarm on the frontiers renews the expense of these boats and volunteers; and the expense is heavy in proportion to the suddenness of the alarm, the magnitude of the apparent danger, and the distance to be traversed. The Illinois volunteers, which went to the Winnebago country three years ago, cost about forty thousand dollars. The Missouri volunteers for the last Summer, when the alarm broke out on the frontier of that State, are not yet paid, but their claims are considerable. On both occasions steamboats were chartered. The movement of Major Riley's detachment last Summer must also have involved some expenditure for transportation. I know these various items to be considerable, and that they have been incurred, and must be incurred, just so long as we remain without horses. The exact amount of what has been expended heretofore is unknown to me; the amount that may be expended hereafter, cannot be foreseen. It will depend upon the frequency and magnitude of the alarms on the frontiers—alarms which must arise upon every point of a line, of more than a thousand miles in length, covering the settlements of Louisiana, Arkansas, Missouri, Illinois, and the new territory upon the Upper Mississippi. The amount of these casual and



unforeseen expenditures may be safely assumed to be equal to the expense of keeping up the ten companies proposed in the bill. I make this assumption advisedly, and would be willing to stake the passage of the bill upon the Quartermaster General's opinion of the fact, if the passage of such a bill, in the judgment of any statesman, ought to depend upon such a fact. In this point of view, and I fully believe it to be correct, the annual keeping up of the ten companies of mounted infantry will be no expense at all; there will be as much, or more, saved from steamboat transportation and mounted volunteers, as will balance the expense of these horses. At the same time the mounted horses will be infinitely more efficient, and incomparably more satisfactory to the West; so that the whole question of passing the bill reduces itself to the mere problem of good will to the Western country, without expense to the Federal treasury. Mr. B. concluded with expressing his thanks to the Senate for taking up the bill before its turn; stating the necessity for it to pass immediately, as the Santa Fe caravan would set out from Missouri in May; and declaring his readiness to answer any questions which might be put to him for the further information of any Senator.

Mr. SMITH, of Maryland, said he saw no objection to the passage of this bill. It read, that the number of men to be mounted was not to exceed ten companies, and of course, the President, at his discretion, would not cause that number to be mounted, if a less number should be found sufficient. This was, indeed, but an experiment, and, if it proved successful, it might become necessary to carry it farther. He had examined into the subject, and become fully acquainted with it, and was, therefore, satisfied of the utility and importance of the measure proposed by the bill. The trade to Mexico was very great, and the hazards to which it was exposed were equally great. It demanded protection; and this bill would operate in the same manner and on the same principle as the protection given by the Government to our merchant ships on the high seas.

The bill was then ordered to be engrossed and read a third time.

FRIDAY, March 26.

*Purchasers of the Public Lands.*

On motion of Mr. Foor, the bill for the relief of the purchasers of public lands was taken up; the question being on certain amendments to the amendments made by the House of Representatives, proposed by the Committee on Public Lands.

Mr. McKINLEY said that although he thought that the amendments, proposed by the Committee of the Senate, rendered the bill somewhat better than it was, as it came from the House of Representatives, yet, as it had been delayed so long, he thought it would do more

good to the people for whose relief it was intended, to pass it and reject the amendments, than farther to delay the bill. This was his wish, and he hoped the Committee on Public Lands would consent to it. After some farther remarks from Mr. McK. the two amendments were rejected.

Mr. HENDRICKS said that, however much he regretted the necessity of retarding the progress of this bill, yet there was one amendment which he felt it his duty to propose. He regretted that the complexion of this bill had been so much changed since it passed the Senate. The whole bill had been stricken out, and the present substituted by way of amendment. The second section of the bill proposed to give a preference, in becoming the purchasers of relinquished lands, to those who had relinquished a pre-emption in favor of the persons in possession. But the conditions of this pre-emption totally destroyed the benefit intended to be conferred. It required the person purchasing under this section of the bill to pay the present minimum price, and in addition thereto the amount paid before relinquishment, subject to thirty-seven and a half per cent. on the last-mentioned sum, provided that the whole amount shall not in any case exceed three dollars and fifty cents per acre. Now, (said Mr. H.,) this is worse than the law as it now stands. As the law now is, the person in possession, it is true, must go into market and compete with others; but nobody will bid against him, and the result will be that the person in possession will get the lands he relinquished, at one dollar and twenty five cents per acre. This section, however valuable it might be to other portions of the Union, brought no relief to the people he had the honor to represent. The effect of this provision would be to keep the relinquished lands so much longer out of market, for nobody would take the pre-emption given where the lands had originally been purchased at the minimum price, and where they can, after the termination of the prescribed time, be had at the present minimum price. Mr. H. then moved to amend the second section of the bill, by inserting in the 27th line, at the close of the first proviso, the following words:

"And that the persons aforesaid, in all cases where the lands relinquished were originally purchased at the minimum price, shall have the right of pre-emption, as aforesaid, on payment of the present minimum price."

Mr. McKINLEY said that the amendment proposed by the Senator from Indiana (Mr. HENDRICKS) had his entire approbation, if the whole bill could be made to conform to it. But if he would examine, he would find this amendment in opposition to the whole policy of the bill. Many attempts had been made in Congress to relieve those who had relinquished their lands, and applied the payments made thereon to other lands retained. Several bills had passed the Senate for that purpose, and the great difficulty had always been in reducing lands which

MARCH, 1890.]

*Purchasers of the Public Lands.*

[SENATE.]

had originally sold at two dollars an acre, under the credit system, to one dollar and twenty-five cents, the minimum price under the cash system. The subject had often been referred to the Commission of the General Land Office, and he had invariably refused his sanction to any bill which did not give the Treasury one dollar and twenty-five cents in addition to the first instalment. The present bill was submitted to him, which makes the minimum price three dollars and fifty cents; but does not relieve those who have purchased at two dollars an acre, from paying one dollar and twenty-five cents in addition to the first instalment. The relief intended by this bill for that class of purchasers is the deduction of thirty-seven and a half per cent. on the remaining instalments, and the additional advantage of taking scrip for the amount paid on all lands which did not cost more than two dollars and fifty cents per acre.

The relinquished lands are placed upon a better footing than those which had reverted, because the first instalment to be paid on those, was subjected to a discount of thirty-seven and a half per cent.; which, upon land costing but two dollars, would bring the whole amount to be paid to but one dollar fifty-six and a quarter cents. The bill was not devised by either House. It was framed to suit the views of the Land Office, and calculated for the benefit of the treasury. It would prove altogether useless to those who might derive benefit from it, if impediments were thrown in the way of its passage at this period of the session. He hoped, therefore, that gentlemen would withdraw all amendments, and suffer it to pass in the shape it had been returned from the House, rather than run the risk of losing whatever good would result from it. There were large classes of citizens who would derive benefit from the provisions of the bill as it now stood. The purchasers of public lands, who had not yet fulfilled their engagements, and those whose lands had reverted to the Government for non-payment, would receive benefit from it. He observed that, if the Senator from Indiana (Mr. H.) would examine the bill a little farther, he would find that the class of purchasers, which he wished to protect, would ultimately have to pay only one dollar and fifty-six and a quarter cents per acre, after deducting the discount provided for by the bill. He observed that it was not such a bill as he was desirous of having; but, he believed, from the discussion and the modification it had undergone in the other House, that it could not be got through that House again, if embarrassed with any farther amendments. It was true it did not suit all, but we had to take such a one as we could get; not such as we would desire.

Mr. KING said he very much regretted that his friend from Indiana had thought it necessary to offer this amendment. Our objects are the same, (said Mr. K.), we both wish to extend relief to those who have been compelled, from

inability to pay, to relinquish a portion of their lands necessary to their settlement; we both wish to keep the actual cultivators of the soil from the grasp of the speculator; and, sir, I am confident, if the Senator from Indiana had examined this bill with his usual attention, he would agree with me that these objects are fully and fairly attained. What, I would ask, are the provisions of this bill? The first section gives to those whose lands have been forfeited for non-payment of the purchase money the right to purchase them at private sale for the minimum price of the Government, in addition to the amount already paid and forfeited; but in no case shall the sum to be paid exceed three dollars and fifty cents the acre; with this the Senator from Indiana is perfectly satisfied. I will say to the gentleman, that the principle of the first section of which he approves, is precisely the principle contained in the second, which he proposes to amend. No relinquished lands are to cost the purchaser more than three dollars and fifty cents the acre; this is the maximum. Take the case put by the Senator: lands which cost two dollars the acre, have been relinquished; the payment made was fifty cents; from this sum, thirty-seven and a half per cent. is to be deducted, and the remainder added to the minimum price of one dollar and twenty-five cents, which makes precisely one dollar fifty-six and a quarter cents the acre, the amount to be paid under this bill, for lands of this description. Is not my friend convinced, by this view of the provisions of this section of the bill, that he has labored under an error, when he supposed that the purchasers of two dollar lands would be compelled to pay more than the original cost? Is he not convinced that the section he proposes to amend is in strict conformity with the principle contained in the first section? And will he not, if convinced of the correctness of the view I have taken, consent to withdraw his amendment, which must, if persevered in, and with success, greatly delay the passage of this most important bill.

Mr. HENDRICKS replied that he understood the second condition of the first section of the bill more favorably to the purchasers of reverted lands than the Senator from Alabama. The case was one of sheer calculation. On the subject of reverted lands, to which the first section of the bill solely applied, the legal holder is permitted to obtain his final receipt and patent, by paying the residuary payments according to the present minimum, and on the principle of the land which expired on the 4th of July last. For instance, if there be three payments due, the purchaser gets his patent for a quarter section, on payment of one hundred and fifty dollars, where the land has originally been purchased at the minimum price. The second section applies to relinquished lands, and requires the pre-emption to pay on a quarter section the present minimum two hundred dollars, in addition to the amount paid before relinquish-

ment, with a deduction of thirty-seven and a half per cent. on such original sum. It is manifest, then, that the purchaser of relinquished lands has much harder terms than the person paying out lands reverted. If, on the reverted quarter section, there have been two instalments paid, all that remains to be paid by the bill is one hundred dollars. If, on the relinquished quarter section there have been two instalments paid, the purchaser is required by the bill to pay the whole minimum price, two hundred dollars, and also to pay the two instalments paid before relinquishment, getting thirty-seven and a half per cent. discount on them, making in all three hundred dollars. The Senators from Alabama (said Mr. H.) admit, that in cases of relinquished lands on which there had been one payment, and where it had been originally purchased at minimum cost, it would, according to this bill, cost the purchaser one dollar and fifty six and a fourth cents per acre. Now this is exactly that of which I complain, and say it is unreasonable that these lands should cost more than one dollar and twenty-five cents per acre, because that is their price, if you say nothing about this in the bill; that is the present minimum. The bill will, as before said, have a tendency to keep these lands longer out of market, for nobody will give more than one dollar and twenty-five cents an acre for them. It will (said Mr. H.) be no advantage to the people I represent, unless giving a longer time for purchasers to prepare for the sales be an advantage.

Mr. McKINLEY said that, by referring to the second section of the bill, not a doubt would remain. He would read it, as follows:

"Sec. 2. *And be it further enacted*, That all purchasers, their heirs, or assignees, of such of the public lands of the United States as were sold on credit, and which lands have, by such persons, been relinquished under any of the laws passed for the relief of purchasers of public lands, and the amount paid thereon applied in payment of other lands retained by them, and which relinquished lands, or any part thereof, may now be in possession of such persons; or in case the certificate of purchase, and part payment of said lands, has been transferred by the persons now in the possession of said lands, or part thereof, or the persons under whom the present occupants may hold such possession, to some other person not in possession thereof, and the payment made thereon applied by such other person, or his assignee, in payment for land held in his own name: in either case, the persons so in possession shall have the right of pre-emption of the same lands, according to the legal subdivisions of sections, not exceeding the quantity of two quarter sections, [in contiguous tracts,] until the fourth day of July, one thousand eight hundred and thirty-one, upon their paying into the proper office the sum per acre therefor, which shall, at the time of payment, be the minimum price per acre of the United States public lands; and, in addition thereto, the same amount per acre heretofore paid thereon, and applied to other lands, subject to a deduction of thirty-seven and a half per centum on the last-mentioned sum: *Provided*, That the sum to be paid shall not, in any

case, exceed three dollars and fifty cents per acre: *Provided, also*, That such persons only shall be entitled to the benefits of this section who shall apply for the same, and prove their possession to the satisfaction of the Register and Receiver of the district in which the land may lie, in the manner to be prescribed by the Commissioner of the General Land Office, within nine months from the passage of this act; for which such Register and Receiver shall each be entitled to receive from such applicants the sum of fifty cents, each: *And provided further*, That the provisions of this section shall not extend to any lands that have, in any manner, been disposed of by the United States."

He could not be mistaken, (Mr. McK. remarked,) because the second section provided against the difficulty apprehended by the gentleman; the cost, by any calculation, would only be one dollar and fifty-six cents per acre. Would the Senator from Indiana desire to place those who had relinquished their lands on a better footing than those who had retained them? Those who had retained their lands were certainly more meritorious than those who had relinquished, and obtained the benefit of their money in the purchase of other lands. He hoped, therefore, the gentleman would see the propriety of passing the bill as it was, and abandon his amendment.

Mr. McLEAN said that, when the amendment was first proposed, he was clearly of opinion that it ought to pass. If the bill was intended to do any good to Illinois and Indiana, the amendment ought to be retained, otherwise it would only benefit the State of Alabama. With us (said Mr. McL.) land is never worth more than one dollar and twenty-five cents per acre, because there is much land in the market, and little demand for it. He was satisfied that the bill should pass without the amendment, as it would benefit Alabama, and do no injury to his State, except to postpone, for nine months, the purchase of relinquished lands; though the passage of the bill, with the amendment, would give to the citizens of Illinois an advance of nine months. The delay would occasion no great difficulty in his State, as one neighbor never purchased the land on which another is settled. The amendment would be a convenience to us, (said he;) for, as the bill stands, it will be of no earthly benefit to us.

The question being taken, the amendment of Mr. HENDRICKS was rejected.

The amendments of the House were then concurred in.

#### *Office of the Attorney-General.*

The bill "to re-organize the establishment of the Attorney-General, and erect it into an Executive Department," was taken up for a second reading.

Mr. ROWAN rose to explain the objects of the bill, which, he said, was of importance to the fiscal concerns of the country, which have occasionally been injured by reason of the incompetency of the United States District Attor-

MARCH, 1830.]

*Office of the Attorney-General.*

[SENATE.]

neys. The Treasury would also be benefited by the enactment of the bill. It is provided that, after suit shall have been ordered in any case whatever, no Collector of a District, Clerk of a Circuit or District Court, United States District Attorney, or any other person than the Marshal of the United States, shall be authorized to receive the money from any such debtor or debtors, but in all cases payment shall be made to the Marshal of the District where the suit has taken place. The duties of the Agent of the Treasury are, by the bill, transferred to, and vested in, the Attorney-General. It has been also believed by the committee that a transfer of the Patent Office to the department of Law would be an improvement. It has been thought that all the duties connected with the Patent Office, which are now required by law to be performed by the Secretary of State, and all applications which are required to be submitted to him, ought to be performed by, and submitted to, the Attorney-General. The Secretary has now to undergo considerable inconvenience and trouble by those duties being imposed upon him, and it has been deemed proper to consign them all, by bill, to the Attorney-General. The bill also provides that the publication of the laws of the United States shall be done under the superintendence of the Attorney-General—a duty which is now assigned to the Secretary of State. The Clerk who is now charged with this duty in the State Department, is to be transferred to the Law Department. This measure has been suggested by the consideration that the Secretary of State may not be, as he is not required to be, a professional man. It is supposed that this duty can be better done by an individual who is still engaged in the profession of the law than by one who is not.

Mr. R. said he did not know whether the bill would be objected to by any gentleman. If agreed to, it would relieve the State Department from those duties which have suggested the project of establishing a Home Department, a measure urged by the former Executive. The Secretary of State will then be left to the conducting of the foreign relations of the country, while the business of the Patent Office, and the superintendence of the collection of debts due the Government, will be confined to the Head of this Department. The Attorney-General is to be the Head of the Law Department; he is required to superintend all suits in which the United States is a party; and his practice is confined to the Supreme Court—cases in inferior courts to be conducted by deputy. All the duties performed by, and all the powers and authority vested in, the Agent of the Treasury, are proposed to be transferred to the Attorney-General. We have been told (said Mr. R.) that the Government has sustained serious losses from the improper manner of collecting the revenue, and from the mode of prosecuting defaulters.

Mr. WEBSTER, in a sportive manner, warned

Mr. R. not to infringe on the secret session discussions.

Mr. ROWAN said he was not aware that he was guilty of any violation of the rules in what he said; and he then proceeded to state the evils resulting from the present mode of collecting the revenue, and of instituting suits against delinquents. These evils the bill was intended to remedy. The Attorney-General is now a member of the Cabinet; and this measure, if carried into effect, will not impose upon him more duties than what, as a member of the Cabinet, he is now required to discharge.

[The bill farther provided that an Assistant should be appointed by Congress to the Attorney-General, who was also to act as Chief Clerk in the Law Department, at a salary of three thousand dollars per annum, besides Assistant Clerks, Messengers, &c. The salary of the Attorney-General was to be placed on a level with that of the other Heads of Departments, namely, six thousand dollars per annum.]

Mr. WEBSTER said, this was a subject which certainly required consideration. He was opposed to the objects of the bill altogether, although he agreed that the evils complained of, which it proposed to remedy, existed. The business of the Departments had outgrown the provision made for their establishment; the business had outgrown what the organization of the Departments contemplated, especially that of the State Department; and so far as the bill proposed to remedy this evil, the objects of it were justifiable. But it proposes to transfer the duties of the Patent Office, with its clerks and officers to the Attorney-General—to the Law Department. Mr. W. objected to any measure which would give this anomalous, this ambiguous character to the Attorney-General, while he was at the same time shut out from practising in any other than the Supreme Court of the United States. You would thus (said Mr. W.) turn him into a half accountant, a half lawyer, a half clerk—in fine, a half of every thing, and not much of any thing. The true course will be, to have a Home Department, if you choose to call it by that name; a Department, he meant, for the management of the internal affairs of the country. This subject had hitherto undergone discussion, and was referred to a Select Committee, of which he, in company with the Senator from Louisiana, (Mr. JOHNSTON,) had the honor to be a member. We recommended the organization of a Home Department, leaving the Attorney-General as he is, a lawyer, to attend to the business of the Government in the Supreme Court. Mr. W. said he was also opposed to the provision of the bill transferring the duties and powers of the Agent of the Treasury to the Attorney-General. The subordinate collectors of moneys ought to be attached to the Treasury; whoever is concerned in collecting the revenue ought to be under the Treasury Department, the Agent of which is one of the most important and useful officers we have. It requires a

professional man—an appropriate character to fill it. The Agent of the Treasury has a jumble of duties to perform; he has to superintend all the light-houses, &c., on the coast, and, in addition, is Agent for the Treasury in collecting the public debts. His (Mr. W.'s) object was to give force and efficiency to that office. He and a gentleman, formerly a member of the other House, who is now abroad, reported at one time a bill to establish an office to be called that of "Commissioner of Customs." Our object was to have appointed a competent man, who understood the laws, and could supervise the collection of the revenue—one who would be qualified to see that these laws received a uniform construction: for this was not, nor is it now, the case. Under the same law, different regulations had, to his own knowledge, been adopted in the custom-houses of New York and Boston. The Boston Collector gave it one interpretation; the New York Collector gave it another; and the Treasury gave it a different interpretation from both, or, he believed, no interpretation at all. To tell the truth, the honorable gentleman to whom he alluded and he (Mr. W.) gave up the project, for already, in that stage of it, we had numerous applicants for the office, none of whom were competent to fill it. Every one who had lost a place of any description, who had been removed from a land office, or any other office, all who wanted employment in general or particular, were candidates for the situation of Commissioner of Customs. But our object being to appoint a competent man, we had to abandon the measure. The Attorney-General had, in Mr. W.'s opinion, enough to do in the Supreme Court. He should be engaged in studying his books of law, instead of superintending the Clerks of either a Patent or Treasury office. He had not, he said, when he rose, any intention of occupying the Senate so long; his object was to ask the gentleman who reported the bill to consent to a postponement of the consideration of it, and appoint for it a particular day. It was necessary that some provision should be made to remedy the evils complained of, although he was opposed to the present bill. He would, when the subject was brought before the Senate again, take up the report accompanying the bill, to which he had adverted.

Friday next was then fixed upon for considering the bill.

FRIDAY, April 2.

*Mr. Foot's Resolution—Nullification.*

MR. JOSIAH S. JOHNSTON, of Louisiana said: The right of a State in this Union to annul an act of Congress (said Mr. J.) presents a grave question to our consideration. It is a question of the first impression, and deepest import; which ought not to be discussed under the excitement of party spirit, the influence of passion, or the peculiar circumstances in which

any of us may find ourselves. It should be approached under a deep sense of the momentous consequences to the people, to the Union, and to the country it involves.

I shall speak on this question, not as a lawyer and a statesman—that has been done already, in an able and masterly manner—I shall speak of it as a man and a citizen, whose hopes and happiness are embarked with those of his constituents in this great experiment, "the world's last hope."

It is now said that the individual States have a veto on the laws, and, thereby, a power to suspend their operation, by which this Government is made to depend upon the will of each and every State. The right of States to annul the laws and suspend the operations of the Government is not derived from the constitution, but is a high and transcendental power, above the constitution and above all law; it is an abstraction from the idea of sovereign power, and a refinement on the theory of Government. The people of the States have not delegated this veto to the Legislatures; it is a judicial, and not a legislative power; if it pertains to the sovereign power of the State, it must be a reserved power to the people, to be exercised by them in their sovereign capacity. But, whether a State, or the people of a State, have the right to a negative on the laws, is a question to be determined, by whom? By the State? That is to be the judge in its own cause. Or, to be submitted to the majority of the people of all the States? or, to the Supreme Court? It is a "controversy in which the United States are a party."

Admitting the power of the State, and the right to decide for herself, then each and every State in the Union has a constitutional veto on the laws of the United States; then the General Government must, or perhaps each of the States must, have a similar power to suspend the laws of any other State, when it exercises any sovereign power that is inhibited to the States, or that comes in collision with the General Government; and this also, the Government and each State must decide for itself. What a scene of confusion!

Again: each State, then, and the smallest State, with the smallest majority in the State, may suspend the laws within her jurisdiction. Then the action of the Government must depend on the concurrent will of each and all the States. Then the laws made by a majority of the people, and of the States, may be controlled, and counteracted by a small, nay, the smallest minority. The Government, if it could be so called, would be absurd in theory, and impracticable in principle.

By the constitution, checks and balances were provided; majorities required; a veto conferred on the President; and a Supreme Court, to decide all questions under the constitution. All which were ridiculous precautions, if each State could exercise the veto, decide all questions for herself, and annul the ex-

APRIL, 1850.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

pressed will of the majority. And what then becomes of the great political maxim, "that absolute acquiescence in the decisions of the majority—the vital principle in republics—from which there is no appeal but to force, the vital principle and the immediate parent of despotism!"

If this veto is the legitimate right of a State, she ought not to be controlled, resisted, or coerced. She may therefore peaceably withdraw from the Union, and must virtually dissolve the Union, because the laws must cease to operate, (the tariff for example,) unless they operate throughout; and besides, could the Union continue, separated by an intervening State? This Union can then only exist as long as twenty-four States concur in opinion. If this principle is true, it ought to have been inserted in the constitution. But it was not. And if the principle is acknowledged, then this constitution was not only imperfect in its organization, but is a political monster, born incapable of living, and containing a principle of self-destruction.

The Union must dissolve peaceably, whenever the caprice, the passion, or the ambition, of a few aspiring men of a State may will it, or it must be maintained by force. It is either disunion or civil war; or, in the language of the times, disunion and blood.

It is time to calculate, not the value, but the duration of the Government.

But we are told no such consequences will ensue. That it is a safe remedy—a necessary check—a salutary restraint upon this uncontrolled majority—a new balance in the constitution, that will regulate all its notions. As soon as this new State power is acknowledged, there will be no more unconstitutional laws, no further encroachments on the rights of the States. "The injured and oppressed States will assume her highest political attitude." She exercises her negative preventive power, she declares the law void—"the necessary consequence," says the gentleman from Tennessee, (Mr. Grundy,) "is, it must cease to operate in the State, and Congress must acquiesce, by abandoning the power, or obtain an express grant from the great source from which all power is drawn. The General Government would have no right to use force." "This will at all times prove adequate to save this glorious system of ours from disorder and anarchy." The parties claiming to exercise the power must call a convention of the States, and unless three-fourths of the States will consent to amend the constitution, and confer the power, it must cease to exercise it. Thus a law passed in the usual form, with majorities in both Houses, approved by the President, may be annulled, by the veto of any State, and every power taken from Congress, unless three-fourths of the States are now willing to grant it. Let us see how this will operate. Suppose the twenty-fifth section of the Judiciary act annulled, the jurisdiction of the court over all cases provided for by it must cease. Again,

the tariff has been declared a palpable violation of the constitution; it must, therefore, cease to operate; then the Supreme Court must not take any cognizance of any case arising under it, and Congress must not employ force; it is therefore unnecessary to resist the laws, and there will be no rebellion or treason. But then there will be no revenue. Congress has a right to lay duties for revenue. How much of this tariff is for revenue? for so much it is constitutional, as well as duties on articles not made in the country, and therefore not for the protection of domestic industry. What must be done in such a dilemma?

Every power which has been at any time denied to Congress would have ceased. The Bank, after it had gone into operation, would have been compelled to shut its doors, and close the concern. All crimes not enumerated in the constitution would be stricken from the statute book; the embargo would have been declared inoperative; the 25th section of the Judiciary act would have been rendered void; the Cumberland road, and subscriptions to canals, grants of land, and all internal improvement, would have been suspended on the veto of a single State. The Judiciary law could not have been repealed, and Louisiana and Florida could not have been acquired.

Such is the *vis inertia*, that it is extremely difficult to get more than a bare majority for any measure. Some do not like its principle or its policy: some are indisposed to change: some do not like the time or the mode of proposing it. There are always reasons enough for opposing any proposition. Most great questions in deliberate bodies are carried by small majorities. The embargo—the war—the bank—the tariff, are striking instances. The Constitution of the United States was adopted in Virginia, 89 to 79. Her late constitution was passed by a majority of only 15. It cannot, therefore, be reasonably expected that three-fourths of the States will ever concur in granting any power to Congress that may be previously declared unconstitutional. The powers of the Government will be constantly frittered away, until it has no power to do good—no means to protect—no energy to act—no principle of union.

But is the theory true, that, when the majority has pronounced, and the presumptuous are all in favor of the law, and it is suspended at the instance of a single State, that Congress are to be presumed in error, and must obtain the sanction of three-fourths of the States? Is it not rather more compatible with the theory and principles of the Government, that the complaining party, the resisting State, should call the convention, and make the appeal, and assure herself that she is right? A majority can repeal the law, and save further trouble.

This negative is supposed to be necessary to the security of the States, and the protection of the minority; but its real operation will be to destroy the force and energy of the administra-

tion. "What may, at first sight, appear a remedy, is, in reality, a poison: to give the minority a negative upon the majority, which is always the case when more than a majority is requisite to a decision, is, in its tendency, to subject the sense of the greater number to that of the lesser. Congress, (under the confederation,) from the non-attendance of a few States, have been frequently in the situation of the Polish Diet, when a single veto has been sufficient to put a stop to all their movements. The sixtieth part of the Union has several times been able to oppose an entire bar to its operations. This is one of those refinements which, in practice, has, in effect, the reverse of what is expected from it in theory."—(*Federalist*.)

The wise men who framed the constitution knew, from the defects and infirmities of the confederation, what was necessary to remedy the errors and correct the evils of that system. They knew that it had been, in its operation upon States only, totally inadequate to the object of its institution; that this Government must look beyond the States, and operate directly through the agency of the people, and upon the people. They knew the necessity of a high court, to decide all questions arising under it; the want of a judiciary power crowned the defects of the confederation. "Laws are a dead letter, without courts to expound and define their true meaning and operation." "This is more necessary, when the frame of the Government is so compounded that the laws of the whole are in danger of being contravened by the laws of the parts."—(*Federalist*.)

They knew it was necessary to have a power to decide on all cases that contravened the authority of the Union, and to prevent the exercise of the inhibited powers by the States, and all other questions which it was foreseen might arise under the new Government. This presented a question of exceeding great difficulty; two plans were proposed, one to give power to the General Government to revise the laws of the States, and the other, the right to use force. Mr. Pinckney proposed, "to render these prohibitions effectual, the Legislature of the United States shall have power to revise the laws of the several States that may be supposed to infringe the powers exclusively delegated by this constitution to Congress, and to negative and annul such as do."

Mr. Randolph proposed—"The Legislature to negative all laws passed by the several States, contravening, in the opinion of the National Legislature, the articles of union, or any treaty, and to call forth the force of the Union against any member of the Union failing to fulfil its duty under the articles thereof."

Upon more mature consideration, however, it was determined to extend the jurisdiction of the Supreme Court to all cases that could arise under the constitution, or the laws or treaties. It was essential to make the judiciary power co extensive with the legislative power.

The constitution, therefore, provided that the judicial power should extend—

1. To all cases in law and equity arising under the constitution.
2. To all cases under the laws of the United States.
3. To all cases under treaties made by them.
4. To all cases affecting ambassadors, ministers, and consuls.
5. To all cases of admiralty and maritime jurisdiction.
6. Controversies wherein the United States are a party.
7. Controversies between two or more States.
8. Controversies between a State and citizens of another State.
9. Controversies between citizens of different States.
10. Controversies between citizens of the State claiming lands under grants of different States.
11. Controversies between a State or citizen, and foreign States, citizens, or subjects.

Here is power granted to try all imaginable cases that can be described; all cases in law and equity, admiralty, or maritime jurisdiction; all that arise under the laws and constitution, and treaties, and then it extends to all controversies in which the United States may be a party, and especially those that arise under the constitution and in execution of the laws. Cases, in general, must operate upon individuals and corporations, and not upon sovereign States. Thus, for example, under the tariff, if goods are introduced and not entered, they will be seized under the revenue laws—then it is a question in law arising under the laws of the United States: if they resist the seizure, it is opposition to the laws; the courts will proceed to judgment, and the President is authorized to call on the Executives of the States for the militia to execute the laws. If they refuse the militia, on the call of the President, then it is the Massachusetts case; if they oppose the laws by force, how will they escape the crime of treason, and how will that differ from the Western insurrection? And all these are controversies to which the United States are a party; if they enter the goods, and suit is instituted on the bond, the court will hear any defence, but they must decide, although the constitution, the power of the United States, or the sovereign power of the State, may be incidentally drawn in: when judgment is obtained, and execution issued, notwithstanding a sovereign State may be interested, by her agents, it must be executed as in the Pennsylvania case, to which I shall presently advert.

It was undoubtedly the intention of the convention to constitute a Supreme Court to decide all questions of law or sovereignty, and the words are as general and as ample as the language admits. But, in addition to this, it is the duty of the President to take care that the laws be faithfully executed, and Congress have power to provide, and they have provided,

APRIL, 1830 ]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

that the President may call forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions. Besides, the Congress have power to suspend the *habeas corpus* in cases of rebellion and invasion. This superintending power of the Government was understood perfectly by the framers of it. To secure the citizens of the respective States from being punishable as traitors to the United States, when acting expressly in obedience to the authority of their own State, it was proposed, in the convention, to add: "Provided that no act or acts done by one or more of the States against the United States, or by any citizen of any one of the United States, under the authority of one or more, shall be deemed treason, or punished as such; but, in case of war being levied by one or more of the States, against the United States, the conduct of each party towards the other and their adherents, respectively, shall be regulated by the laws of war and of nations"—which was not adopted; which sufficiently explains the views of the convention. But, after the adoption of the constitution, the State of North Carolina proposed as an amendment, that no State should be declared in rebellion but by the consent of two-thirds of the States present—which was also not adopted.

If this is the true interpretation of the meaning of the constitution, they will take upon themselves a heavy responsibility who undertake, upon a mere abstract theory of right, to resist or to interfere with the regular and legal operations and functions of the different branches of the Government, at the will and pleasure of the States. Having entered into civil society, and distributed the power into different hands, they contract the obligation of obedience; they are bound by the constitution which they have sworn to support.

This question is reduced to a narrow compass. The right to resist a usurpation, or a tyranny, is not denied; the right to use all the peaceful modes of redress, not doubted. It has been admitted that the Supreme Court may decide all cases between individuals. But it is said the States now claim the right to decide when the General Government exceed their authority, because that is a sovereign power. I have endeavored to show that the power to decide all questions under the constitution has been conferred on the Supreme Court; and, if so, the question is concluded, whatever may be the form of the Government.

If this is a pure and simple confederation of States, they are bound by the constitution, by all they have stipulated, and they are obliged by their duty and by their oath to submit to the court all matters of which they have jurisdiction; that is, every case arising under the constitution and laws, and every controversy to which the United States are a party; and they are, moreover, bound to show that, to decide on the unconstitutionality of a law is an exception, and not included in this grant; they

are bound to show that, in such a union of States, for certain great objects, each State has a right to decide, definitely, for herself when the power is exceeded. The convention intended to provide for all cases that could occur; if they have failed to remedy the evil that was foreseen, they have made a Government which, instead of being a splendid fabric of human invention, is utterly impracticable, and which must exist only by the forbearance of the States.

This was the defect of the confederation; it had not the sanction of the people; it was ratified only by the State Legislatures; and, therefore, reasoning from these theories of Government, it was said each Legislature had a right to repeal the law, and thereby annul the confederation. It is said, in reply to this, in the *Federalist*:

"However gross a heresy it may be to maintain that a party to a compact has a right to revoke that compact, the doctrine itself has had respectable advocates. The possibility of a question of this nature proves the necessity of laying the foundations of the National Government deeper than in the mere sanction of delegated authority. But the fabric of American Empire ought to rest on the solid basis of the consent of the people. The streams of national power ought to flow immediately from the pure original fountain of all legitimate authority."

The right of a State to annul a law of Congress must moreover depend on their showing that this is a mere confederation of States; which has not been done, and cannot be said to be true, although it should not appear to be absolutely a Government of the people. It is by no means necessary to push the argument, as to the character of the Government, to its utmost limit; the ground has been taken, and maintained with great force of reasoning, that this Government is the agent of the supreme power, the people. It is sufficient for the argument that this is not a compact of States; it may be assumed that it is neither strictly a confederation nor a National Government: it is compounded of both—it is an anomaly in the political world—an experiment growing out of our peculiar circumstances—a compromise of principles and opinions—it is partly federal, partly national.

"The proposed constitution is, in strictness, neither national nor federal; it is a composition of both; in its foundation, it is federal, not national; in the sources from which the ordinary powers of the Government are drawn, it is partly federal, partly national; in the operation of these powers, it is national, not federal; in the mode of amendment, it is neither wholly federal nor wholly national."  
—(*Federalist*.)

This was the great question solved by the convention: whether this Government should be a confederation, founded on an equality of States, or a Union, upon the principle of population. The large States contended for a representation of the people, the small States for equality of States. The parties were nearly bal-



anced, and upon this ground the great struggle was conducted. A majority of the people could not consent to be governed by a minority in the great concerns of this Government; while the small States thought their safety consisted in maintaining their equal share of the power. A majority of the convention was in favor of the popular principle; the House of Representatives was formed upon a representation of the people; the States were equally divided in the formation of the Senate, which led to a compromise, by which that branch was formed on the principle of equality of States, and the election of President was rendered, in the first instance, popular, but upon a compound principle, growing out of the compromise. The confederation was abandoned, as too defective to remedy; the federative principle was retained, so far as to protect the rights of the small States, while it preserved those of the people of the large States, by the division and organization of the Legislative department, by which no law or treaty can be made without the concurrence of a majority of the people and of the States. The rights of both were farther protected by the veto of the Executive. The States are a part of the machinery of the Government, and constitute one great whole, and "a more perfect Union," under the style of "We the people of the United States." This Government, thus constituted for certain purposes, acts for the people collectively, and directly upon the people of the Union, without any reference to the States. It does not act by States, or upon the States. It levies taxes, imposts, and duties, upon the people; it administers justice in the States, upon individuals; it commands the militia, &c. Now, having entered into this Government, by whatever name it may be known, so checked and balanced, with so many guards and precautions, what is the principle upon which it is founded? Certainly, that a majority of the people and of the States should pass all laws, and that these should be the supreme laws of the land, and that every question of power under the constitution and laws should be decided by the Supreme Court.

This, I think, has been shown by the substitution of the Supreme Court in the place of the other modes recommended, to give Congress the control of the State laws: by giving, in express terms, jurisdiction of all controversies in which the United States are a party; by the cotemporaneous construction of the constitution in the Judiciary Act; by declaring the laws supreme; by giving the President power to call out the militia, and making it his duty to execute the laws. The court has uniformly exercised jurisdiction, which has been approved, on an open appeal to the States. The President has carried the judgments, by force, into effect. The State tribunals have acknowledged the authority, and such is now the opinion of three-fourths of the people and of the States of this Union.

It was believed, by those who framed the constitution, that the laws would be supreme, and would be enforced by the National Judiciary. Mr. Monroe, in his Message, in December, 1824, says, the Supreme Court "decides, in the last resort, on all great questions which arise under our constitution, involving those between the United States, individually, between the States and the United States." Chief Justice Spence, 19 Johnson 164, says, "I consider that court as paramount, when deciding on an article of the constitution, and an act of Congress passed under its express injunction."

In the case of *Cohens vs. Virginia*, "It (the counsel) maintains that, admitting the constitution and laws to have been violated by the judgment, it is not in the power of the Government to apply a corrective. They maintain that the nation does not possess a department capable of restraining, peaceably, and by authority of law, any attempts which may be made, by a part, against the legitimate powers of the whole; and that the Government is reduced to the alternative of submitting to such attempts, or of resisting them by force; they maintain that the Constitution of the United States has provided no tribunal for the final construction of itself, or of the laws or treaties of the nation, but that this power may be exercised, in the last resort, by the courts of every State in the Union." The court, however, decided in favor of the power of the court.

It has been objected by the gentleman from South Carolina, (Mr. SMITH,) that a bare majority of the Supreme Court may decide the most important questions of State rights. The answer is, that no provision was made in the constitution; none was thought necessary. It is in the power of Congress at all times to change it, and to require a large majority. This has been tried, and always resisted.

It is objected, that, when the court is composed of seven, there may be three on each side, and one may decide; but this is favorable to the States: for if they affirm the constitutionality of a law, they only sanction what has been previously declared by all the other branches of the Government. If a majority of one member decides against the law, his opinion countervails the weight of all the majority by which the law was passed; so that, when the constitutionality of a law is doubted, a single member, when there is a disagreement, may decide against the power of the Government. If more than a majority are required to declare a State law unconstitutional, by parity of reason, more than a majority must be required to declare an act of Congress unconstitutional.

Having examined the question upon principle, let us see if there is any precedent or authority for it. I believe there are but two gentlemen who have avowed the opinion. The gentleman from New Hampshire marched boldly up to the very boundary of the question and stopped short; he refused to vouch for the

APRIL, 1830.]

*Mr. Foot's Resolution—Nullification.*

[SENATE.]

nullifying power, by which I infer it is not, in his opinion, the true democratic doctrine.

There is no precedent except the Virginia and Kentucky resolutions; they are merely declaratory that the States are parties to the compact, and that, in case of a palpable, dangerous, and deliberate violation of the constitution, the State has a right to interpose. But how? By annulling the law? No; but by declaring the act of Congress unconstitutional, and referring the question to the other States. It is a protest on the part of the State, and an appeal from Congress to the State authorities, who are also parties. The last Virginia resolution is in these words, after expressing the most sincere affection for their brethren of the other States: "The General Assembly doth solemnly appeal to the like dispositions of the other States, in confidence that they will confer with this Commonwealth in declaring, as it does hereby declare, that the acts aforesaid are unconstitutional, and that the necessary and proper measures will be taken by each, for co-operating with this State, in maintaining, unimpaired, the authorities, rights, and liberties, reserved to the States, respectively, or to the people;" and for this purpose they were transmitted to the several States.

In the debate, Mr. Mercer said: "The State believed that some of its rights had been invaded by the late acts of the General Government, and proposed a remedy, whereby to obtain a repeal of them. The plan contained in the resolutions appeared the most advisable; force was not thought of by any one." "Nothing seemed more likely to produce a temper in Congress for a repeal, than a declaration similar to the one before the committee, made by a majority of States, or by several of them." "We do not wish," (said Mr. M.), "to be the arm of the people's discontent, but to use their voice." "They (the States) can readily communicate with each other in the different States, and unite their common forces for the protection of their common liberty." Mr. Barbour said: "The gentleman from Prince George had remarked, that these resolutions invited the people to insurrection and to arms; but, if he could conceive that the consequences foretold, would grow out of the measure, he would become its bitterest enemy;" "but it would appear by reference to the leading feature in the resolutions, which was their being addressed, not to the people, but to the sister States, praying, in a pacific way, their co-operation in arresting the tendency and effect of unconstitutional laws."

General Lee said: "If the law was unconstitutional, he admitted the right of interposition; nay, it was their duty; every good citizen was bound to uphold them in fair and friendly exertions to correct an injury so serious and pernicious."

But the object of these resolutions is more clearly and explicitly set forth by Mr. John Taylor, who introduced the resolutions. In

his reply to the apprehensions of civil commotion, to which the resolutions were said to have a tendency, he said: "Are the republicans possessed of fleets and armies? if not, to what could they appeal for defence and support? To nothing but public opinion; if that should be against them, they must yield. They had uttered what they conceived to be truth, in firm, yet decent, language; and they had pursued a system which was only an appeal to public opinion."

He maintained that the fifth article of the constitution had provided a remedy against encroachments, by Congress on the States, and upon the rights of each other. By the article, "two-thirds of Congress may call upon the States for an explanation of any such controversy as the present, by way of amendment to the constitution, and thus correct an erroneous construction of its own acts, by a minority of the States, while two-thirds of the States are also allowed to compel Congress to call a convention, in case so many should think an amendment necessary for the purpose of checking the unconstitutional acts of that body." He said, "the will of the people and the will of the States were made the constitutional referee in the case under consideration. The State was pursuing the only possible and ordinary mode of ascertaining the opinion of two-thirds of the States, by declaring its own, and asking theirs. He hoped these reprobated laws would be sacrificed to quiet the apprehensions even of a single State, without the necessity of a convention, or a mandate from three-fourths of the States. He said, "firmness and moderation could only produce a desirable coincidence between the States." "Timidity would be as dishonorable as the violent measures, which gentlemen on the other side recommended in cases of constitutional infractions, would be immoral and unconstitutional."

Thus it appears that there is nothing in these resolutions that looks to the right of the State of Virginia herself to annul an act of Congress; on the contrary, it is the very reverse. It is a declaration, that the law, in their opinion, violates the constitution; that the State has a right, as a party to the compact, to interpose, by referring it to the consideration of the other parties to the compact: the language is too plain, and too explicit, to require comment.

Two very important amendments were introduced, which evinced still farther that it was not their intention to annul the laws, or to claim the right to interpose in that way. The first was: they declared, in the first of the resolutions, that the alien and sedition laws were unconstitutional, and not law, but utterly null and void, and of no force or effect. These nullifying expressions were stricken out, upon the motion of Mr. Taylor himself. They were, no doubt, originally inserted merely to express the opinion that the necessary effect of their being unconstitutional was that they were not law, and null and void; but it is evident it was not

in the contemplation of the Legislature or of the author of them, that the Legislature, who was merely submitting the subject by way of appeal to the other States, could make the laws void by their declaration. Mr. Taylor said the plan proposed might eventuate in a convention. He did not admit or contemplate that a convention might be called; he only said that, if Congress, upon being addressed to have the laws repealed, should persist, they might, by a concurrence of three-fourths of the States, be compelled to call a convention. The second amendment was in the third clause: "The compact in which the States alone are parties." The word alone, stricken out on the motion of Mr. Giles. It had been said that the people only were the parties to the compact, and the resolution declared that States alone were parties. Mr. Giles said, "the General Government was partly of each kind;" and, therefore, moved to strike out alone.

The opinion of Mr. Jefferson, which has been quoted in this debate, relative to calling a convention, the proper arbiter in questions of sovereignty, correspond with those of the Legislature. In his letter to W. C. Nicholas, in September, 1799, then about to proceed to Kentucky, directing what was necessary to avoid the inference of acquiescence, and to procure a concert in the general plan of action, he recommended resolutions, first, answering the committee of Congress and the States that replied: second, making protestation against the precedent and principle, and reserving the right of making this palpable violation of the Federal compact the ground of doing in future whatever we might now rightfully do, should repetitions of these and other violations of the compact render it expedient: third, expressing, in affectionate and conciliatory language, our warm attachment to the Union with our sister States, and to the instrument and principles by which we are united." He says, "Mr Madison does not concur in the reservation proposed above, and from this I recede readily, not only in deference to his judgment, but because, as we should never think of separation, but for repeated and enormous violation, so these, when they occur, will be cause enough of themselves."

I hold in my hand a letter from George Nicholas, of Kentucky, in November, 1798. He was a conspicuous member of the Virginia convention—an able lawyer and statesman—a distinguished republican, and a leading and influential man, in the day of the Kentucky resolutions. I read from this letter to show the views then entertained of the remedy against unconstitutional laws. "If you had been better acquainted with the citizens of Kentucky, you would have known that there was no just cause to apprehend an improper opposition to the laws from them. The laws we complain of may be divided into two classes, those which we admit to be constitutional, but consider as impolitic, and those which we believe to be

unconstitutional, and therefore, do not trouble ourselves to inquire as to their policy, because we consider them as absolute nullities. The first class of laws having received the sanction of a majority of the Representatives of the people of the States, we consider as binding on us, however we differ in opinion from those who passed them as to their policy; and although we will exercise our undoubted right of remonstrating against such laws, and demanding their repeal as far as our numbers will justify us in making such a demand, we will obey them with promptitude, and to the extreme of our abilities, so long as they continue in force. As to the second class of the unconstitutional laws, although we consider them as dead letters, and, therefore, that we might legally use force in opposition to any attempts to execute them; yet, we contemplate no means of opposition, even to those unconstitutional acts, but an appeal to the real laws of our country. As long as our excellent constitution shall be considered as sacred, by any department of our Government, the liberties of our country are safe, and every attempt to violate them may be defeated by means of law, without force or tumult of any kind." He quotes the following to Hamilton: "The complete independence of the courts of justice is peculiarly essential in a limited constitution: by a limited constitution I understand one which contains specific exceptions to the legislative authority, such, for instance, as that it shall pass no bill of attainder, no *ex post facto* law, and like; limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the constitution void. Without this, all reservations of particular rights or privileges amount to nothing." "It is more rational to suppose that the courts were designed to be an intermediate body between the people and the Legislature, in order, among other things, to keep the latter within the limits assigned to their authority. The interpretation of the law is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges as, a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be any irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the constitution ought to be preferred to the statute, the intention of the people to the intention of their agents. As long, therefore, as the Federal courts retain their honesty and independence, our constitution and our liberties are safe;" "but resistance ought not to be appealed to, except in cases of extreme danger and necessity: let all good men unite their efforts to prevent the United States from being brought to that crisis."

On the 14th November, 1799, four days after

APRIL, 1880.]

*Donations to Deaf and Dumb Institutions.*

[SENATE.]

this letter, the Kentucky Legislature entered its solemn protest against the laws which had been declared unconstitutional. The States of Maryland and Ohio had questions about the Bank of the United States, which were submitted to the Supreme Court. The constitutionality of the embargo, which involved an immense amount, was settled by the Supreme Court. In fine, every question that has arisen in forty years, under the constitution, has been satisfactorily settled; and they have established many great and difficult principles, which have now become the settled rule of construction and the law of the land; and they will go on in the execution of this high duty, until they are stopped by the want of power in the Executive to execute the judgments of the court, the power of a State to annul the laws to the contrary notwithstanding.

But, happily for us, this question of the power of the court, and the necessity and expediency of establishing another tribunal to decide on cases involving the sovereign power of the two Governments, has been formally submitted to the States, in a strong case, by a large State, and under the most imposing forms; and was as solemnly rejected. The State of Pennsylvania, in 1809, complained of an infringement of her State rights, by an unconstitutional exercise of power in the United States courts: that no provision had been made in the constitution for determining disputes between the General and State Governments, by an impartial tribunal, when such cases occur. The Legislature

*Resolved*, That from the construction which the United States courts give to their powers, the harmony of the States, if they resist encroachments on their rights, will be frequently interrupted; and if, to prevent this evil, they should, on all occasions, yield to stretches of power, the reserved rights of the States will depend on the arbitrary power of the courts."

"To prevent the balance between the General and State Governments from being destroyed, and the harmony of the States from being interrupted, *Resolved*, That our Senators in Congress be instructed, and our Representatives requested, to use their influence to procure an amendment to the Constitution of the United States, that an impartial tribunal may be established to determine disputes between the General and State Governments."

These resolutions were submitted to all the States. I hold in my hand the answers of nine States, refusing the proposition, to wit: Virginia, North Carolina, Maryland, Georgia, Tennessee, Kentucky, New Jersey, Vermont, and New Hampshire, without one affirmative State.

MONDAY, April 5.

*Donations to Deaf and Dumb Institutions.*

On motion of Mr. MARKS, the bill making an appropriation of a township of land for the support of the New York Institution for the

education of the Deaf and Dumb, was taken up for consideration.

The question being on the amendment heretofore proposed by Mr. MARKS, to embrace within the provisions of the bill the institutions in the States of Pennsylvania and North Carolina,

Mr. BURNET suggested the propriety of including the State of Ohio, which had petitioned for a similar appropriation to the Deaf and Dumb Asylum of that State.

Mr. MARKS accepted the proposition as a part of his amendment.

Mr. DICKERSON expressed a hope that his State (New Jersey) would be added to the provisions of the bill.

Mr. BURNET said he would not offer any objections to this proposition. He remarked, that, to avoid the trouble of introducing separate bills in relation to each particular State, it would be well to embrace all which had institutions of this nature, already chartered, and now in full operation.

Mr. KING inquired of Mr. DICKERSON, whether a Deaf and Dumb Institution had been chartered by the Legislature of New Jersey, as this bill was intended for institutions already incorporated. If we make an appropriation for one State, why not, he asked, extend the provisions of the bill to all the States where these institutions are incorporated?

Mr. DICKERSON replied in the affirmative.

Mr. MARKS stated, that, in Pennsylvania, the institution was incorporated by the Legislature many years ago, and possesses an annuity of eight thousand dollars. There were seventy-five pupils now maintained and educated in it, some of whom were from New Jersey and Maryland. By the last census it appeared there were five hundred of this unfortunate class of persons for whom this institution was designed, in the State of Pennsylvania alone.

Mr. KING said he would move to recommit the bill, with instructions to embrace in its provisions all the States which are now omitted. He could not see why Congress should be called upon to legislate, session after session, for individual States. If it be the intention to continue such appropriations, why confine them to particular States? He moved to recommit the bill, to include all the States which now are in, and which may hereafter be admitted into, the Union.

Mr. SANFORD said the bill would be lost for this session, if now recommitted, as proposed by the gentleman from Alabama, and he hoped, although he was favorable to its objects, that he (Mr. KING) would not press his motion. If the bill be reported agreeably to the instructions, it may come before us too late to be acted upon. He therefore hoped the gentleman would consent to let it pass as it is.

Mr. BARTON moved to strike out all after the enacting clause, and insert a substitute embracing all the States not already provided for by such grants.

Mr. KING said the amendment offered by Mr.

BARTON perfectly answered the objects he had in view, and he would therefore withdraw his motion.

Mr. BARNARD agreed to the propriety of the proposition of Mr. BARTON, but thought the better course to pursue would be, to give these donations of lands to the States which have already incorporated institutions of this character, and to defer providing for other States until they shall have also chartered institutions. Although he was favorable to the objects of the amendment, yet, as its only tendency now would be to embarrass the bill, he hoped it would be rejected.

Mr. MCKINLEY said that, so far from the amendment embarrassing the bill, it would relieve it from all embarrassment, as the disposition of it would tend to establish one of two principles in relation to the bill itself; that is, whether the principles of it should be adopted as a general principle, or rejected altogether. This ought to be done; and if it is right to appropriate thus for one State, it is right for all; and if it is not right for all, it is not right for one. It would be incorrect to legislate in favor of any one State, as it is certain that in all the States there are some deaf and dumb people in proportion to the population of each. Let the principle be tested, he said: he would vote for the amendment, as it would have that effect.

Mr. LIVINGSTON considered it his duty to express his sentiments on this bill. By it, it is intended to make an appropriation of the public lands for the support of institutions of private charity in individual States. That was the object of the bill, and nothing else; and looking to that constitution which all are so anxious to preserve, I would ask (said Mr. L.) from what part of the constitution this authority is derived, which the bill proposes to exercise. These are public lands, to be sure; but our obligations in the disposition of them, are the same as in the appropriation of the funds of the country. The constitution says we shall dispose of the public funds for the general welfare. Of this, there are two constructions: one is, that these appropriations shall be made under certain expressed powers in the constitution which (Mr. L. said) was his construction; and the other was the liberal doctrine—that Congress has the power to appropriate for purposes not inimical to the constitution. The public lands are intended for the benefit of all—for the common benefit. Where, he asked, was the difference between the objects for which the public lands and the public funds were intended? The common benefit and the general welfare appeared to him to be synonymous. What, then, are the objects of this bill? One gentleman proposes to give a township of the public lands to one State—next it is proposed to include three other States; and lastly, the gentleman from Alabama (Mr. KING) proposes to extend the provisions of the bill to all the States of the Union, and to those which

may in future be admitted into it. Where, he asked, was the authority for this, but in those general words in the constitution, “the common benefit?” We cannot (said Mr. L.) make this appropriation under such a power; and if we can do it, my ideas of the constitution have been hitherto grossly erroneous. My idea is, that such subjects ought to be left to the care of the States themselves; that the public lands are intrusted to us to be disposed, not for the purpose of relieving poverty and distress, but for general, and not for particular purposes. In one State, suppose there are a certain number of destitute people, and in another State a certain number of deaf and dumb; are we to provide for each of these classes? And if for only one class, I would be glad to know what part of the constitution points out the distinction. If this bill is to be adopted, then shall we become the superintendents of the domestic concerns of the States. I would be glad to know (continued Mr. L.) why we should make an appropriation for the support of a deaf and dumb institution in New Jersey, and not of a marine hospital in any seaport town in the United States.

Mr. L. stated the course he had always pursued in reference to the disposition of the public lands, although it was possible he may have had, in some instances, unknown to himself, varied from it. With respect to the new States, he considered it was a duty Congress had to perform which it was obliged to perform by the terms of the donations of these public lands—to appropriate what was necessary to carry on the operations of these States. Next he considered it necessary to give them public lands for the maintenance of their public institutions, because we possess those lands, and have consequently stopped the sources whence they would draw taxes to enable them to support these institutions. Therefore (Mr. L. said) he always gave his vote in favor of appropriations for any reasonable purpose, when required by the States in which the lands lie. He also would vote, and had voted, for any measure which, in his judgment, would have the effect of improving the value of the public lands. The more facilities were afforded for the improvement of these lands, by canals, roads, &c., the more he thought the public treasure would be increased. Mr. L. concluded by saying he could not, in his conscience, vote for the bill, or for any of the modifications proposed, however laudable and just he admitted the objects of them to be.

Mr. MARKS said that this bill introduced no new principle. There were many precedents for it. He instanced the appropriation, made in 1818, for the support of the Connecticut Asylum for the deaf and dumb, and that made in 1826 to a similar institution in Kentucky. That was the time, he said, to have raised an opposition to the principle, and not now. He instanced also the appropriation of ten thousand dollars to the sufferers of Alexandria by the fire which some years ago took place there.

APRIL, 1880.]

*Pay of Pursers in the Navy.*

[SENATE.]

There was no difference, he thought, between appropriating the proceeds of the public lands directly and the lands themselves, as in the case is proposed. That appropriation of the public money was made unanimously. He viewed this case as the gentleman from Missouri, (Mr. BARROX), that we should adopt this bill on the same principle that we make appropriations of public lands for the support of schools in the new States. We have (said Mr. M.) passed a bill appropriating three hundred thousand dollars for the benefit of Alabama, to aid her in making internal improvements, on the ground that it is also for the benefit of the United States. Would any one venture to say that the object of this bill is not more national and more for the common benefit than improvements in Alabama? He said he would vote for the bill, as it established no new principle.

Mr. HAYNE said, whenever he heard the constitution mentioned on the floor, he knew at once what its fate would be—that it would be voted down. He remembered that a venerable Senator from North Carolina formerly said that the constitution was dead and buried. He pronounced its funeral discourse, and it would be now as impossible for human talent to revive it, as it is for man to raise the dead. The gentleman from Louisiana need not expect to succeed. He (Mr. H.) did not rise to discuss the question, but to remark what will be the natural consequences of this decision. He was glad that the gentleman from Alabama moved to carry out the principle of the bill to its legitimate consequences. He proposed, if an appropriation is to be made to one State, that it be extended to all. That was just, fair, and honorable. He would be glad the provisions of the bill had been extended farther, so as to embrace every charity in the country, and to give each a township. This is the true question—the length, depth, and breadth of the principle. What difference should be made between a community and a State? It is said, nothing can be more elevated in a national point of view than to extend the blessings of education; but why not also make appropriations for lunatic asylums? why not provide for the aged and poor? He did not allude, of course, to the army and navy, (that was a different question,) but to the aged and destitute of the United States. Could any thing be more god-like than to relieve them? Why not include, also, almshouses, and go on through all the circles of public and private calamities?

The gentleman from Pennsylvania (Mr. MARKS) said we had given donations to people who suffered by fire in Alexandria, and asked, should any difference be made in appropriations of land and money. And are we thus (asked Mr. H.) to provide for persons who have suffered from the elements by land or sea—for all who have met with misfortune—are all to be provided for? What will this end in? The United States will then have jurisdiction of all charities in the country, and next be called

upon to make appropriations for them. He said he did not mean to go into the constitutional question, but to state the principle which we must act upon hereafter, if this bill is passed. Precedents have been quoted to support the bill, which in turn will become precedent for another exercise of a greater power. He wished to explain the responsibility which gentlemen would have to act under in supporting the bill, and on the third reading of it he would call for the yeas and nays.

Mr. Foor asked a division of the amendment. He wished to separate the appropriations for institutions already chartered from those intended for future institutions.

The question on the several amendments was put, and decided in the affirmative.

Mr. McKINLEY moved an amendment going to make it the duty of the Secretary of the Treasury to select from among the lands subject to entry at private sale the township of land granted to any State within which such lands may lie; which was agreed to.

Mr. BARTON then moved to add to the bill "and the institutions hereafter incorporated shall sell said townships within five years after their incorporation;" which was also agreed to.

Mr. NOBLE, with a view to afford the Senate further time for reflection on the amendments, moved that they should be printed, and, with the bill, laid on the table; which was agreed to—ayes 25.

WEDNESDAY, April 7.

*Pay of Pursers in the Navy.*

The bill "regulating the duties and providing for the compensation of pursers in the navy" being taken up for a second reading,

Mr. HAYNE, in explanation of the bill, stated the practice, which now prevails, of furnishing supplies to the officers and crews of the public armed vessels of the United States. The present mode of making the usual supplies is, said he, from the stores of the pursers, who distribute and make the necessary purchases on their own account. This practice tends to profuseness, as the purser is induced to pass off as much as he possibly can, no matter at how high a price he may lay his stores up. There were many other abuses, which, taken altogether, render a change necessary, and it is to remedy these evils in the system that the bill is recommended. It is proposed that the supplies usually furnished by pursers, shall be in future laid in by Government, under the direction of the Navy Department, and shall be committed to the care of the purser of the ship, who is to furnish them to the officers and crew, according to the accustomed mode of requisition, and at an advance of ten per cent. upon the prime cost of such supplies. Pursers are required to account and are held responsible for all supplies confided to their care; and they

are also bound to give such security as will be satisfactory to the Secretary of the Navy for the faithful performance of their duties. The bill proposes to change the compensation of pursers to a fixed annual salary, which is to be graduated according to the rank of the vessel in the line. A distinction is also proposed to be made between their pay while at sea, or on land service. Those regulations have been made on just and moderate principles. The Secretary of the Navy is authorized to make such other regulations as he may consider necessary to give full effect to the provisions of the bill. These views which he had expressed, Mr. H. said, were concurred in by the Commissioners of the Navy, and it was believed, if acted upon, would promote the comfort of the crews of our armed vessels; would prevent abuses, and save money to the country.

Mr. HOLMES inquired why the supplies should not be distributed to the officers and crews at the invoice prices of them, since it was proposed by the bill to give a per annum compensation to the pursers, and why ten per cent. was fixed upon as an advance upon them?

Mr. HAYNE replied, that the committee experienced some difficulty in settling this matter, as suggested by the gentleman from Maine. He considered the per centum fixed upon as just and necessary: for, suppose (said Mr. H.) the United States ought not to make any thing in furnishing the supplies, was it not known that many articles of sea stores were perishable? The committee doubted whether ten per cent. would be sufficient to meet contingent losses. Some thought that fifteen or twenty per cent. would be little enough.

Mr. FOOT remarked, that the compensation to pursers, as specified in the fourth section of the bill, was different. It is proposed to give a purser on board of a ship of the line at the rate of two thousand five hundred dollars a year; on board of a frigate, two thousand dollars; on board of a sloop of war, one thousand six hundred dollars; and on board of any other vessel, one thousand three hundred dollars. Mr. F. said he knew no reason why a purser of a ship of the line who has the best accommodations, who undergoes no more risk than, and is liable only to the same penalty as, the purser of a frigate, should have a larger compensation; nor, on the same principle, could he see why the purser of a sloop of war should have a smaller compensation than the purser of a frigate.

In small vessels, in vessels less than half the size, and less than half the crew of the ship of the line, the penalty and risk were the same. If the object is to pay for services, they are all entitled to the same sum.

Mr. HAYNE said that the compensation was intended to be graduated on the responsibility and trust of the pursers. Is it not manifest that, in a large ship, the trouble and responsibility will be double that of a small vessel? It was this consideration which suggested the dis-

crimination in their salaries. Whenever pursers are on shore in the discharge of their duty at a navy yard or station, the bill provides that they shall receive the same pay as pursers on board a frigate; and, while absent on leave, or waiting orders, or absent on furlough, they shall receive the same allowances made to lieutenants under the same circumstances. These were the views of the Committee on Naval Affairs, and were recommended by the Navy Commissioners as judicious regulations.

Mr. FOOT observed, in reference to that part of the fourth section which provides that each purser shall receive the same pay as when on board of his ship, while settling his accounts at the seat of Government, that, as the expenses were equal, the compensation ought to be the same.

Mr. HAYNE said it was intended to suppose the continuance of the cruise, at the end of the cruise; to consider the purser, with respect to his compensation, still on a cruise, as his labor and responsibility were the same. If the first principle (graduating the pay of pursers) was a correct one, then this followed as a legitimate consequence.

Mr. HOLMES said he was not satisfied with these reasons. If the purser of a large ship was longer settling his accounts than the purser of a small vessel, then there ought to be no discrimination.

Mr. HAYNE, in reply, referred the gentleman to the proviso in the fourth section of the bill, which limits the time of remaining at the seat of Government to one month.

Mr. DICKERSON said the bill proposed to allow pursers absent on leave, waiting orders, or on a furlough, the same pay and allowances made to lieutenants under the same circumstances. He wished to know what lieutenants did receive.

Mr. HAYNE replied that they received half pay.

Mr. DICKERSON said that abuses in this respect prevailed. He considered the allowance proposed to be given to pursers while in the navy yard, was too great. He submitted that such compensation to pursers, while not on actual service, was too great.

Mr. HAYNE said, motives of economy suggested this provision. The moment they come on shore they are attached to the navy yard, and, while absent on furlough, they are to receive the same as lieutenants, who receive but five hundred dollars while absent, &c. It was indispensable to allow them something while not at sea, in order to keep up their connection with the navy. This (said Mr. H.) is doing nothing more than we ought to do. The abuses referred to by Mr. D. would be corrected under the bill, as the Secretary of the Navy was thus empowered.

Mr. DICKERSON did not believe it was necessary to pay them so much for the purpose of keeping up their connection with the navy. They will willingly remain in the ranks without

APRIL, 1890.]

*Pay of Purser in the Navy.*

[SENATE.]

it, and he thought it was improper to pay them while off duty. That a whole corps should be paid at all times when out of service he could not agree, and would therefore vote against the provision.

Mr. FOOT moved to amend that part of the bill fixing the compensation for pursers, while settling their accounts at the seat of Government, so that each purser should, in that case, have the pay of a purser of a sloop of war. Here there was no difference in the responsibility of any, and he thought the compensation of all should be the same.

Mr. HAYNE said he would not object to this amendment. The argument was strong that the compensation of all should be as their troubles are, the same. The rate of a sloop of war was a fair medium between a ship and a schooner.

The amendment was agreed to.

Mr. FOOT said there was great inequality, if not injustice, in graduating the pay of pursers as proposed in the fourth section of the bill. If a purser of a frigate is to have two thousand dollars, why should so wide a distinction be made between the purser of a ship of the line, who is to receive two thousand five hundred dollars, and of a sloop of war, who is to receive only one thousand six hundred dollars? I presume, (said Mr. F.,) a purser on board of a sloop of war, on the West India station, would have great reason to complain; for although there is more responsibility as to the issuing of the supplies, yet on the bond there is the same responsibility.

Pursers ought not to be reduced in rank; but there may be pursers who have been long in the service in small vessels, and he therefore thought so great a distinction as this ought not to be kept up.

Mr. F. moved to amend the bill, so that, instead of giving, as it now proposes, one thousand six hundred dollars to the purser of a sloop of war, "and one thousand three hundred dollars to the purser of any other vessel," it should read, and "to the purser on board of a sloop of war" or "of any other vessel, one thousand five hundred dollars per annum."

Mr. HAYNE opposed this amendment. The committee had fixed upon the graduation of the pay proposed in the bill as recommended by the Navy Commissioners. He considered the rates were reasonable, and showed they were proportioned as nearly as could be to the trouble and responsibility incurred by the respective officers.

The amendment was negatived.

Mr. FOOT moved to amend the same section so as to reduce the salary of a purser of a ship of the line from two thousand five hundred dollars to two thousand dollars, being the salary proposed for a purser of a frigate.

Mr. HAYNE opposed this amendment. He said there could be no better reason for reducing the salary of a purser of a ship of the line to that of the purser of a frigate, than there is for reducing the latter to that of a sloop of

war. He dwelt again on the necessity of giving an excess of compensation equivalent to the greater degree of trouble and responsibility attached to the office of purser of a large vessel. The greater number of the crew of large vessels he adduced as an additional reason why regard should be had to the consequent labor that must be undergone.

Mr. FOOT considered that the pay of pursers ought not to be greater than that of the commanding officers of the navy.

Mr. SMITH, of Maryland, said there was no principle whatever in the amendment. Take the case of collectors in New York and Baltimore; in the former place the collector has double the responsibility, and double the salary.

After a few observations from Mr. FOOT in reply,

The question on the amendment was decided in the negative.

Mr. DICKERSON said he was opposed to the difference of compensation proposed in the bill when pursers are at sea and on shore. The bill proposes to give them, when discharging their duties at the navy yard, the same pay as pursers of frigates. He considered this too much; the difference of the service did not justify such a compensation. He moved to reduce the sum to the pay of pursers of sloops of war.

Mr. WOODBURY, admitting the responsibility to be less in such cases, did not object to the reduction, on the part of the Committee on Naval Affairs.

The amendment was agreed to.

Mr. DICKERSON moved to strike out the words "and while absent on leave, or waiting orders, or absent on furlough, they (pursers) shall receive the same pay and allowances made to lieutenants under the same circumstances." He thought that paying them while not in service, was too much like pensioning. He moved the amendment to try the sense of the Senate on it, although he was aware of the necessity of keeping them connected with the navy.

Mr. SHESBEE expressed a hope that the amendment would not prevail, unless it was the intention of gentlemen to drive them out of the service at once. They ought (said Mr. S.) to be kept in connection with the navy, and if you agree to this proposition, the consequences will be, they must quit the service. He trusted the Senate would not adopt it: for, if we do, we may as well say to them at once, "go—leave the service." He did not consider their proposed pay as more than reasonable and just.

Mr. DICKERSON said he would withdraw his amendment, though he did not think it required so large a sum to keep the pursers in the service.

Mr. HAYNE said, if it had been agreed to, the only effect of it would be to double the expense of the Government in this respect: for they would all, of necessity, be attached to some navy yard or station, instead of being allowed leave of absence, as heretofore. The



whole bill has been suggested by considerations of reform in the department of the Government.

Mr. Foor said he might have misapprehended the bill, but he was of opinion that it was neither calculated to reform nor to decrease our expenses. The first section of the bill proposes that all articles be provided by Government, under the direction of the Navy Department. Now, any one who is at all acquainted with our foreign stations knows that it is often necessary to make purchases at foreign ports. Each ship must then have an agent, or a new department must be created—a purchasing department, Mr. F. supposed.

Mr. WOODBURY said the second section of the bill provides that, where there is no navy agent to make the necessary purchases, the purser shall be permitted to purchase any articles for the use of the crew, and then only in an emergency, and on the authority of the commanding officer; for which purchase vouchers will be required. Mr. W. stated that particular instances had occurred where their emoluments had been supposed to reach, in a year, eight or ten thousand dollars, and that a reduction would excite less general competition for the office.

The bill was then ordered to be engrossed for a third reading.

THURSDAY, April 8.

*Pay of Purser in the Navy.*

The bill "regulating the duties and providing for the compensation of pursers in the navy," was taken up, and read the third time; and the question being on its passage,

Mr. Foor said that sufficient information had not been imparted to induce him to agree to the passage of this bill. He had examined into the amount of compensation now given to pursers, and he found that this bill proposed an entire change in relation to it. The number of pursers in the service, according to the blue book, is forty-three, and their compensation, at six hundred and sixty dollars per annum, the present allowance, amounts to twenty-eight thousand three hundred and eighty dollars. By this bill the compensation of the purser of a ship of the line is fixed at two thousand five hundred dollars a year, while the captain has but one thousand nine hundred and thirty dollars; and the purser of a frigate is to have two thousand dollars, which also exceeds the pay of a captain, unless he is commanding a squadron. The purser on board of a sloop of war is to have one thousand six hundred dollars, and of any other vessel one thousand three hundred dollars, both of which salaries exceed that of a master commandant, who, under the present regulations, receives but one thousand one hundred dollars. Their pay is proposed to be made greater, also, than that of a lieutenant, who only receives nine hundred and fifty dollars

per annum. They are to receive, too, while not in service, the same pay as a lieutenant. Mr. F. said he could not see what possible public advantage could be derived from this alteration. The whole number of ships (he said) was twenty-five; and allowing a purser to each, the increase of expenditure, according to a calculation he made, would be thirty-three thousand three hundred dollars; the expense, according to the present system, being twenty-eight thousand three hundred and eighty, and according to the proposed plan sixty-one thousand six hundred and eighty dollars. The bill proposes an increase of pay more than one hundred per cent. of what it now is, while the officers who perform services at sea, with the exception of the captain of a squadron, receive not more than the purser of a second-rate vessel.

Mr. HAYNE said if there was any thing certain in the world, it was, that the operation of this bill would be to reduce the compensation of pursers one-half. The object of the committee was to reduce their compensation, and there was no doubt whatever but that the bill would produce that effect. Notwithstanding this, it was very true that the change would produce an additional charge on the Treasury. Mr. H. said he would explain the subject, by stating the operation of the existing and the proposed rule, and then gentlemen could decide which was the better. It has been felt as an evil, of which every one connected with the navy has complained, that the crew have been invariably divested of their entire pay by the pursers, who are authorized to lay up stores of goods, and who derive the greater part of their compensation by the sales of these goods to the sailors at advanced prices.

The United States, as has been observed, allow a compensation to the pursers; but this is not their only compensation; it is the smallest part of it. They are permitted (said Mr. H.) to carry out stores, and sell them at a profit to the ship's company; and although attempts have been made to regulate these profits, they have, on some articles, it is known, amounted to sixty per cent. Under this system, what must be the effect? And he would appeal to all who were connected with the navy, to those who know what effects such causes would produce on the human character. He repeated, that the purser was permitted to lay up the stores, and, to enable him to do so, money was advanced to him by the United States. By the regulations, he is authorized to sell them at a percentage; thus (Mr. H. said) making it his interest to purchase the goods at a high price, and to dispose of as much as possible. He is not dependent on his salary, but on the profits to be derived from the sale of the stores to the sailors, who are induced to purchase so much, and at so high a price, that, at the winding up of their accounts, their pay is exhausted by the purser. The operation of the law (said Mr. H.) was cruel and unjust towards these men, who

APRIL, 1880.]

*Pay of Purser in the Navy.*

[SENATE]

were the most liable of any to be imposed upon. By the existing regulations, the purser is induced to screw from the sailor his last farthing. It was impossible (he said) to avoid frauds, under the present system. The purser had the opportunity and the means to lay up the stores at one price, and charge them at another. Mr. H. said he was not authorized to say that such a practice was general, but one case of this character had been reported by the Navy Department. It appeared on the trial of a purser, at a late court martial, that he had bought goods at one dollar and fifty cents, and sold the same at three dollars and fifty cents. The frauds of the purser were detected, he was found guilty, and cashiered. Abuses had been so interwoven in this system, that they must be practised while it continues. Mr. H. said he understood the profits of a purser, in this way, for a single year, were ten thousand dollars; and this was not improbable, for they were not required to render an account of their sales. That such abuses did prevail, no gentleman would deny. By the bill, the goods are to be purchased by the Government, under the direction of the Navy Department, and furnished to the sailors at an advance of ten per cent. instead of allowing the purser to draw from the crew ten thousand dollars beyond his pay, as in the instance he had alluded to. Why, he asked, appoint pursers at a salary of seven or eight hundred dollars, and pay them the balance out of the pockets of the poor hard-working sailors, who, of all others, required to be defended from imposition? It was an act of common justice, and it was due to our sailors, to their comfort and happiness, to protect them. Mr. H. then recapitulated his arguments of yesterday, and, in conclusion, read an extract from the report of the Navy Commissioners, in recommendation of the measure proposed.

Mr. Foor said there was no doubt that the emoluments of pursers would, in many instances, be reduced one-half, nor was there any more doubt that their pay, when unemployed, would be increased. He admitted the evil existed, but he considered the bill not calculated to remove it. The saving proposed by allowing the purser ten per cent., reminded him of the saving made some time ago by the Navy agent in extra postages. He was, however, in favor of the first section of the bill, but he objected to that part of the bill increasing the pay of pursers to that of the highest navy officers. As the provisions of the bill would not, in his opinion, correct the evil, and as it would cause an additional expense of thirty odd thousand dollars, if adopted, with an additional commission of ten per cent. to be allowed by the United States, he felt it his duty to oppose it.

Mr. BELL opposed the bill on the ground that neither the talents nor experience required to perform the duties of purser, or the responsibility attached to the office, justified so high a salary as the bill contemplated. Many revenue

officers handle and are intrusted with more money and property than any purser, and yet have not a salary of more than one thousand dollars a year. Any person qualified to fill the office of clerk, if a man of probity, was competent to discharge the duties of purser. The situation was much sought after, as the services required were not difficult; and, if the salary was even less, we would find many anxious to accept of it, sufficiently qualified. We hear (said Mr. B.) much talk about reform and retrenchment. He would be glad, he said, to see some of it practised.

Mr. DICKERSON said he believed reform was necessary with respect to pursers; but he did not think this was the best way to effect it, by increasing their salaries. The abuses were enormous, and, to remedy them, he would suggest, to give to the pursers the salaries they have, and inflict a penalty on them for whatever abuse in office they may be guilty of. Let them sell out the goods at a fair price, and, if they behave dishonestly, discharge or cashier them, but do not raise their salaries. What reason, he asked, was there for raising them to the grade of lieutenants, when not on service? Is it because they have heretofore made too much, and we do not like to reduce them at once? Is it through a desire to save, not the United States, but these officers? If a proper accountability were enforced, the power of the Department would reach them; and he believed their present compensation was amply sufficient without increasing it. Applications for this office were numerous, and it was generally thought that the office of purser is the direct road to fortune. Although believing it to be the intention of the committee to produce a reform of these abuses, yet considering the bill ineffectual for that object, he would vote against its passage; and, as he wished to record his name, he asked for the yeas and nays, and they were ordered.

Mr. TAZEWELL said he would vote for the bill, because it was recommended by the Navy Commissioners, although he had himself but little confidence in the success of the experiment. He had proposed to alter the rations, and to assimilate them to those of the French or British navy, which, if done, would render this officer, if at all necessary, merely a commissary, and would make the seamen more secure, and frauds less frequent; but others, more conversant with the matter than he was, recommended this bill, and he was willing to make the experiment. This was not a new plan. Complaints like the present had been formerly made in relation to the issuing of tobacco—a very important article in the consumption of sailors. The pursers had been in the habit of purchasing tobacco at high prices, charging accordingly, and made enormous profits. The Government, to remedy the evil, purchased the tobacco for each ship, and, in most cases, the tobacco, in a few months, became damaged, was condemned, and the purser had to purchase

more. Such will be the case here, he feared; and lay up stores how and when you will, they will become damaged, and be condemned, and somebody must buy others in their stead, and that somebody will be the purser. But, as navy officers of experience have recommended this measure, he would vote for it, although he had no confidence in it, and but little in his own plan. His proposition was to alter the component parts of the ration, so as to allow the sailors to select what luxuries they thought proper, in lieu of the unnecessarily large quantities they now receive.

Mr. HOLMES said he was disposed to try the experiment. All saw and admitted the evil. He would vote for the bill.

Mr. BENTON opposed the plan proposed, as not calculated to effect its object, although, he was sure, suggested by the best motives. He said, a similar experiment was tried to remedy the abuses and impositions practised towards the Indians by the agents appointed to deliver them their goods, on the part of the United States. That experiment cost the country three hundred thousand dollars, and, notwithstanding, this had lasted for upwards of thirty years. He recommended the practice adopted in the army. The soldiers, he said, were as subject to imposition as sailors. There they have sutlers, and the soldiers may purchase from them, or not, as they please. In reply to the objection which might be urged against this, that sailors being at sea had no choice left, but were obliged to purchase from the pursers, Mr. B. said that the average time which our vessels were absent from a port, was not more than three months—a space of time for which they could, while in port, easily provide themselves in all necessities.

Mr. HAYNE replied that, under the existing system, all admitted that evils prevailed, and that a remedy was required. When an inquiry is made as to the proper remedy—and he submitted that every gentleman wanted light on the subject—ought we not, he asked, to make application for information to those who are acquainted with the whole system, with the nature and extent of the evils, and who are competent to recommend measures to correct those evils? He thanked gentlemen for giving the Naval Committee credit for good intentions, however they have failed in carrying them into effect; but he had to inform gentlemen that at every step the Naval Committee took, they felt the want of that practical knowledge of the matter which was necessary for their progress, and had to apply for information to those experienced naval officers, the Commissioners of the Navy. It was in conformity with their suggestions and recommendations the provisions of the bill were framed, with the exception of some slight variation. The measures recommended by the gentleman from New Jersey have been resorted to, and have failed; and he would submit whether, on such subjects as this, gentlemen ought not to distrust their judg-

ments. As to the remedy of the gentleman from Virginia, (Mr. TAKEWELL,) to alter the rations, he did not think it inconsistent with this bill, and if he (Mr. T.) wished to offer it, there was a bill before the committee to which it could be appended. He would suggest that the President should be authorized to alter the rations from time to time, and that they should not be fixed by laws as they now are. He would not say that the rations of our navy should be the same as that of the British or French. In the British navy, the sailors are forced to drink several quarts of beer a day, to make them red-faced; and if the gentleman would look into the rations of the French navy, he did not think that he (Mr. T.) would consent to put our sailors on such and so small an allowance.

Mr. H. again stated the benefits which would result to the sailors, and to the United States, from the adoption of this bill, and then proceeded to notice the objections of Mr. BENTON; who had remarked that the experiment proposed had been tried with the Indians, and had failed. There was a wide difference, (said Mr. H.) there was no analogy whatever between the two cases. In this bill guards are proposed which will effectually prevent any abuses. The supplies are to be laid up on requisition, on the order of the Navy Department, and will be subject to inspection. An invoice of them is to be given to the commander of the ship and to the purser, who is to give a receipt for them, when confided to his care. He is then held responsible for all, and has to keep regular accounts with the officers and crew. It is thus impossible that the stores will not be laid in well, and that any frauds or imposition can take place. The situation of sailors and soldiers was, he said, quite different. The soldier may purchase from the sutler or not, as he pleases, as he has another vender to resort to; but the sailor has no such chance—there is no competition at sea—the purser has all in his power. When on shore he may act as the soldier. This bill may not (said Mr. H.) succeed; but as those most skilled in such matters advise that it will remedy an existing evil, the committee thought it their duty to lay it before the Senate.

Mr. FOOR said that the bill would cause an increase not only of the expense of pursers, but an increase of expenses, exclusive of that, to the United States. If sugar is laid up here at twelve and half cents a pound, and the vessel sails for the West Indies, there sugar of the same quality can be had for two and a half cents a pound. Slops, as they are called, can be purchased in the Mediterranean much cheaper than here; yet by each of these the United States will be a loser. He suggested to fix the premium at ten per cent. on issues, and to let the compensation of pursers stand as it now is.

Mr. SMITH, of Maryland, said that he understood the chairman of the committee (Mr. HAYNE) to state that the money was advanced by Government in long voyages. Suppose, then,

APRIL, 1830.]

*Removal of the Indians.*

[SENATE.]

that a vessel goes to the Pacific for three years, and that Government advances thirty thousand dollars, the interest on that sum would be equal to the purser's pay. In reply to what had been said by Mr. BENTON, Mr. S. said he was correct in stating that the general time of a voyage at sea was three months, but not so in stating that all a sailor had to do when he arrived in port, was to go ashore and buy what he wanted. The sailor has not money: he takes none to sea with him, and if he did, (said Mr. S.), he would throw it overboard, likely. But suppose Jack asks the purser for ten dollars; whether to go on shore for a frolic or buy a coat; the purser refuses him. Jack then says, I want a pair of boots. A sailor (said Mr. S.) never wants boots; but this case had, to his knowledge, occurred. Jack, of course, gets the boots; he is charged fifteen dollars for them; he goes on shore and sells them for two dollars, all which he spends. This (said Mr. S.) is in reply to the remedy suggested by the gentleman from Missouri, and this would be the result of it. He said he would vote for the bill.

The question was then put on the passage of the bill, and decided in the affirmative, by yeas and nays, 84 to 10.

*The Indians.*

The Senate resumed the bill to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi.

Mr. FRELINGHUYSEN moved to add to the bill the following:

"Sec. 9. That, until the said tribes or nations shall choose to remove, as by this act is contemplated, they shall be protected in their present possessions, and in the enjoyment of all their rights of territory and government, as heretofore exercised and enjoyed, from all interruptions and encroachments."

"Sec. 10. That, before any removal shall take place of any of the said tribes or nations, and before any exchange or exchanges of land be made as aforesaid, that the rights of any such tribes or nations, in the premises, shall be stipulated for, secured, and guaranteed, by treaty or treaties, as heretofore made."

Mr. McKINLEY then renewed the amendment which he heretofore offered to the 4th section, in the following words:

"And upon the payment of such valuation, the improvements so valued and paid for shall pass to the United States; and possession shall not afterwards be permitted to any of the same tribe."

Mr. FRELINGHUYSEN addressed the Senate about two hours, in continuation of his speech heretofore commenced, when he gave way for an adjournment.

FRIDAY, April 9.

*Removal of the Indians.*

The bill to provide for an exchange of lands with the Indians residing in any of the States or territories, and for their removal west of the

river Mississippi, was resumed in Committee of the Whole, with the amendment offered by Mr. FRELINGHUYSEN.

Mr. FRELINGHUYSEN said: I proceed to the discussion of those principles which, in my humble judgment, fully and clearly sustain the claims of the Indians to all their political and civil rights, as by them asserted. And here, I insist that, by immemorial possession, as the original tenants of the soil, they hold a title beyond and superior to the British crown and her colonies and to all adverse pretensions of our confederation and subsequent Union. God, in his providence, planted these tribes on this Western continent, so far as we know, before Great Britain herself had a political existence. I believe, sir, it is not now seriously denied that the Indians are men, endowed with kindred faculties and powers with ourselves; that they have a place in human sympathy, and are justly entitled to a share in the common bounties of a benignant Providence. And, with this conceded, I ask in what code of the law of nations, or by what process of abstract deduction, their rights have been extinguished?

Where is the decree or ordinance that has stripped these early and first lords of the soil? Sir, no record of such measure can be found. And I might triumphantly rest the hopes of these feeble fragments of once great nations upon this impregnable foundation. However mere human policy, or the law of power, or the tyrant's plea of expediency, may have found it convenient at any or in all times to recede from the unchangeable principles of eternal justice, no argument can shake the political maxim, that, where the Indian always has been, he enjoys an absolute right still to be, in the free exercise of his own modes of thought, government, and conduct.

In the light of natural law, can a reason for a distinction exist in the mode of enjoying that which is my own? If I use it for hunting, may another take it because he needs it for agriculture? I am aware that some writers have, by a system of artificial reasoning, endeavored to justify, or rather excuse the encroachments made upon Indian territory; and they denominate these abstractions the law of nations, and in this ready way the question is despatched. Sir, as we trace the sources of this law, we find its authority to depend either upon the conventions or common consent of nations. And when, permit me to inquire, were the Indian tribes ever consulted on the establishment of such a law? Who ever represented them or their interests in any Congress of nations, to confer upon the public rules of intercourse, and the proper foundations of dominion and property? The plain matter of fact is, that all these partial doctrines have resulted from the selfish plans and pursuits of more enlightened nations; and it is not matter for any great wonder, that they should so largely partake of a mercenary and exclusive spirit toward the claims of the Indians.

It is, however, admitted, sir, that, when the increase of population and the wants of mankind demand the cultivation of the earth, a duty is thereby devolved upon the proprietors of large and uncultivated regions, of devoting them to such useful purposes. But such appropriations are to be obtained by fair contract, and for reasonable compensation. It is, in such a case, the duty of the proprietor to sell; we may properly address his reason to induce him; but we cannot rightfully compel the cession of his lands, or take them by violence, if his consent be withheld. It is with great satisfaction that I am enabled, upon the best authority, to affirm, that this duty has been largely and generously met and fulfilled on the part of the aboriginal proprietors of this continent. Several years ago, official reports to Congress stated the amount of Indian grants to the United States to exceed two hundred and fourteen millions of acres. Yes, sir, we have acquired, and now own, more land as the fruits of their bounty than we shall dispose of at the present rate to actual settlers in two hundred years. For, very recently, it has been ascertained, on this floor, that our public sales average not more than about one million of acres annually. It greatly aggravates the wrong that is now meditated against these tribes, to survey the rich and ample districts of their territories, that either force or persuasion have incorporated into our public domains. As the tide of our population has rolled on, we have added purchase to purchase. The confiding Indian listened to our professions of friendship: we called him brother, and he believed us. Millions after millions he has yielded to our importunity, until we have acquired more than can be cultivated in centuries—and yet we crave more. We have crowded the tribes upon a few miserable acres on our Southern frontier: it is all that is left to them of their once boundless forests: and still, like the horse-leech, our insatiated cupidity cries, give! give!

Before I proceed to deduce collateral confirmations of this original title, from all our political intercourse and conventions with the Indian tribes, I beg leave to pause a moment, and view the case as it lies beyond the treaties made with them: and aside also from all conflicting claims between the confederation, and the colonies, and the Congress of the States. Our ancestors found these people, far removed from the commotions of Europe, exercising all the rights, and enjoying the privileges, of free and independent sovereigns of this new world. They were not a wild and lawless horde of banditti, but lived under the restraints of government, patriarchal in its character, and energetic in its influence. They had chiefs, head men, and councils. The white men, the authors of all their wrongs, approached them as friends—they extended the olive branch; and, being then a feeble colony and at the mercy of the native tenants of the soil, by presents and

professions, propitiated their good will. The Indian yielded a slow, but substantial confidence; granted to the colonists an abiding place; and suffered them to grow up to man's estate beside him. He never raised the claim of elder title: as the white man's wants increased, he opened the hand of his bounty wider and wider. By and by, conditions are changed. His people melt away; his lands are constantly coveted; millions after millions are ceded. The Indian bears it all meekly; he complains, indeed, as well he may; but suffers on; and now he finds that this neighbor, whom his kindness had nourished, has spread an adverse title over the last remains of his patrimony, barely adequate to his wants, and turns upon him, and says, "away! we cannot endure you so near us! These forests and rivers, these groves of your fathers, these fire-sides and hunting grounds, are ours by the right of power, and the force of numbers." Sir, let every treaty be blotted from our records, and in the judgment of natural and unchangeable truth and justice, I ask, who is the injured, and who is the aggressor? Let conscience answer, and I fear not the result. Sir, let those who please, denounce the public feeling on this subject as the morbid excitement of a false humanity; but I return with the inquiry, whether I have not presented the case truly, with no feature of it overcharged or distorted? And, in view of it, who can help feeling, sir? Do the obligations of justice change with the color of the skin? Is it one of the prerogatives of the white man, that he may disregard the dictates of moral principles, when an Indian shall be concerned? No, sir. In that severe and impartial scrutiny which futurity will cast over this subject, the righteous reward will be, that those very causes which are now pleaded for the relaxed enforcement of the rules of equity, urged upon us not only a rigid execution of the highest justice, to the very letter, but claimed at our hands a generous and magnanimous policy.

Standing here, then, on this unshaken basis, how is it possible that even a shadow of claim to soil, or jurisdiction, can be derived, by forming a collateral issue between the State of Georgia and the General Government? Her complaint is made against the United States, for encroachments on her sovereignty. Sir, the Cherokees are no parties to this issue; they have no part in this controversy. They hold by better title than either Georgia or the Union. They have nothing to do with State sovereignty, or United States sovereignty. They are above and beyond both. True, sir, they have made treaties with both, but not to acquire title or jurisdiction; these they had before—ages before the evil hour to them, when their white brothers fled to them for an asylum. They treated to secure protection and guarantee for subsisting powers and privileges; and so far as those conventions raise obligations, they are willing to meet, and always have met, and faithfully performed them; and now expect from a

APRIL, 1830.]

*Removal of the Indians.*

[SENATE.]

great people, the like fidelity to plighted covenants.

I have thus endeavored to bring this question up to the control of first principles, I forget all that we have promised, and all that Georgia has repeatedly conceded, and, by her conduct, confirmed. Sir, in this abstract presentation of the case, stripped of every collateral circumstance—and these only the more firmly established the Indian claims—thus regarded, if the contending parties were to exchange positions; place the white man where the Indian stands; load him with all these wrongs, and what path would his outraged feelings strike out for his career? Twenty shillings tax, I think it was, imposed upon the immortal Hampden, roused into activity the slumbering fires of liberty in the old world, from which she dates a glorious epoch, whose healthful influence still cherishes the spirit of freedom. A few pence of duty on tea, that invaded no fireside, excited no fears, disturbed no substantial interest whatever, awakened in the American colonies a spirit of firm resistance; and how was the tea tax met, sir? Just as it should be. There was lurking beneath this trifling imposition of duty, a covert assumption of authority, that led directly to oppressive exactions. "No taxation without representation" became our motto. We would neither pay the tax nor drink the tea. Our fathers buckled on their armor, and, from the water's edge, repelled the encroachments of a misguided cabinet. We successfully and triumphantly contended for the very rights and privileges that our Indian neighbors now implore us to protect and to preserve to them. Sir, this thought invests the subject under debate with most singular and momentous interest. We, whom God has exalted to the very summit of prosperity—whose brief career forms the brightest page in history; the wonder and praise of the world; freedom's hope, and her consolation; we, about to turn traitors to our principles and our fame—about to become the oppressors of the feeble, and to cast away our birthright! Sir, I hope for better feelings.

It is a subject full of grateful satisfaction, that, in our public intercourse with the Indians, ever since the first colonies of white men found an abode on these Western shores, we have distinctly recognized their title; treated with them as owners, and in all our acquisitions of territory, applied ourselves to these ancient proprietors, by purchase and cession alone, to obtain the right of soil. Sir, (said Mr. F.,) I challenge the record of any other or different pretension. When, or where, did any assembly or convention meet which proclaimed, or even suggested to these tribes, that the right of discovery contained a superior efficacy over all prior titles?

And our recognition was not confined to the soil merely. We regarded them as nations—far behind us indeed in civilization, but still we respected their forms of government—we

conformed our conduct to their notions of civil policy. We were aware of the potency of any edict that sprang from the deliberations of the council fire; and when we desired lands, or peace, or alliances, to this source of power and energy, to this great lever of Indian government we addressed our proposals—to this alone did we look; and from this did we expect aid or relief.

I now proceed, very briefly, to trace our public history in these important connections. As early as 1763, a proclamation was issued by the King of Great Britain to his American colonies and dependencies, which, in clear and decided terms, and in the spirit of honorable regard for Indian privileges, declared the opinions of the crown and the duties of its subjects. The preamble to that part of this document which concerns Indian affairs, is couched in terms that cannot be misunderstood. I give a little extract: "And whereas it is just and reasonable and essential to our interests and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories, as, not having been ceded to or purchased by us, are reserved to them or any of them as their hunting grounds," therefore, the Governors of colonies are prohibited, upon any pretence whatever, from granting any warrants of survey, or passing any patents for lands, "upon any lands whatever, which, not having been ceded or purchased, were reserved to the said Indians;" and, by another injunction in the same proclamation, "all persons whatever, who have either wilfully or inadvertently seated themselves upon any lands, which, not having been ceded to, or purchased by the crown, were reserved to the Indians as aforesaid, are strictly enjoined and required to remove themselves from such settlements."

This royal ordinance is an unqualified admission of every principle that is now urged in favor of the liberties and rights of these tribes. It refers to them as nations that had put themselves under the protection of the crown; and adverting to the fact that their lands had not been ceded or purchased, it freely and justly runs out the inevitable conclusion, that they are reserved to these nations as their property; and forbids all surveys and patents, and warns off all intruders and trespassers. Sir, this contains the epitome of Indian history and title. No king, colony, State, or territory, ever made, or attempted to make, a grant or title to the Indians, but universally and perpetually derived their titles from them. This one fact, that stands forth broadly on the page of Indian history, which neither kings nor colonies—neither lords proprietors, nor diplomatic agents, have, on any single occasion, disputed, is alone sufficient to demolish the whole system of political pretensions, conjured up in modern times, to drive the poor Indian from the last refuge of his hopes.

The next important era in the order of time relates to the dispute of the colonies with Great Britain. The attention of the Congress on the eve of that conflict was called to the situation of these tribes, and their dispositions on that interesting subject. Then, sir, we approached them as independent nations, with the acknowledged power to form alliances with or against us. For, in June, 1775, our Congress resolved, "That the Committee for Indian Affairs do prepare proper talks to the several tribes of Indians, for engaging the continuance of their friendship to us, and neutrality in our present unhappy dispute with Great Britain." Again, on the 12th July, 1775, a report of the committee was agreed to, with the following clause at its head: "That the securing and preserving the friendship of the Indian nations, appears to be a subject of the utmost moment to these colonies." And, sir, the journals of that eventful period of our history are full of resolutions, all of which indicate the same opinions of those illustrious statesmen, respecting the unquestioned sovereignty of the Indians. I forbear further details. After the Revolution, and in the eighth year of our independence, in the month of September, A. D. 1783, the Congress again took up the subject of Indian affairs, and resolved to hold a convention with the Indians residing in the Middle and Northern States, who had taken up arms against us, for the purposes of receiving them into the favor and protection of the United States, and of establishing boundary lines of property, for separating and dividing the settlements of the citizens from the Indian villages and hunting grounds, and thereby extinguishing, as far as possible, all occasion for future animosities, disquiet, and contention." If, at any point of our existence as a people, a disposition to encroach upon the Indians, and to break down their separate and sovereign character, could have been looked for, or at all excused, this was the time; when we had just come out of a long, severe, and bloody conflict, often persecuted by our foes with unnatural barbarity, and to aggravate which, these very tribes had devoted their savage and ferocious customs. And yet, sir, what do we find? Instead of the claims of conquest, the rights of war, now so convenient to set up, the American Congress, greatly just, accord to these very Indians the character of foreign nations, and invite them to take shelter under our favor and protection; not only this, but adopt measures to ascertain and establish boundary lines of property between our citizens and their villages and hunting grounds.

Under the confederation of the old Thirteen States, and shortly before the adoption of the constitution, on the 20th of November, 1785, a treaty was made with the Cherokee nation, at Hopewell. This treaty, according to its title, was concluded between "Commissioners Plenipotentiary of the United States of America, of the one part, and the Headmen and Warriors of all the Cherokees, of the other." It gives

"peace to all the Cherokees," and receives them into the favor and protection of the United States. And, by the first article, the Cherokees agree to restore all the prisoners, citizens of the United States, or subjects of their allies, to their entire liberty. Here, again, we discover the same magnanimous policy of renouncing any pretended rights of a conqueror in our negotiations with the allies of our enemy. We invite them to peace; we engage to become their protectors, and in the stipulation for the liberation of prisoners, we trace again the broad line of distinction between the citizens of the United States and the Cherokee people.

Who, after this, sir, can retain a single doubt as to the unquestioned political sovereignty of these tribes? It is very true, that they were not absolutely independent. As they had become comparatively feeble, and as they were, in the mass, an uncivilized race, they chose to depend upon us for protection; but this did not destroy or affect their sovereignty. The rule of public law is clearly stated by Vattel—"one community may be bound to another by a very unequal alliance, and still be a sovereign State. Though a weak State, in order to provide for its safety, should place itself under the protection of a more powerful one, yet, if it reserves to itself the right of governing its own body, it ought to be considered as an independent State." If the right of self-government is retained, the State preserves its political existence; and, permit me to ask, when did the Southern Indians relinquish this right? Sir, they have always exercised it, and were never disturbed in the enjoyment of it, until the late legislation of Georgia and the States of Alabama and Mississippi.

The treaty next proceeds to establish territorial domains, and to forbid all intrusions upon the Cherokee country, by any of our citizens, on the pains of outlawry. It provides, that, if any citizen of the United States shall remain on the lands of the Indians for six months "after the ratification of the treaty, such person shall forfeit the protection of the United States, and the Indians may punish him, or not, as they please." What stronger attribute of sovereignty could have been conceded to this tribe, than to have accorded to them the power of punishing our citizens according to their own laws and modes; and, sir, what more satisfactory proof can be furnished to the Senate, of the sincere and inflexible purpose of our Government to maintain the rights of the Indian nations, than the annexation of such sanctions as the forfeiture of national protection, and the infliction of any punishment within the range of savage discretion? It is to be recollected that this treaty was made at a time when all admit the Cherokees to have been, with very rare exceptions, in the rudest state of Pagan darkness.

It is really a subject of wonder, (said Mr. F.) that after these repeated and solemn recognitions of right of soil, territory, and jurisdiction, in these aboriginal nations, it should be gravely

APRIL, 1830.]

*Removal of the Indians.*

[SENATE.]

asserted that they are mere occupants at our will; and, what is absolutely marvellous, that they are a part of the Georgia population—a district of her territory, and amenable to her laws, whenever she chooses to extend them.

After the treaty of Hopewell was concluded and ratified, and in the year 1787, the States of North Carolina and Georgia transmitted their protest to Congress, in which they complained of the course of transactions adopted with respect to the Indians, and asserted a right in the States to treat with these tribes, and to obtain grants of their lands. The Congress referred the whole matter to a committee of five, who made an elaborate report that disclosed the principles upon which the intercourse of the confederacy with these people was founded. It is material to a correct understanding of this branch of the subject, that we should advert to a limitation, subsisting at that time, upon the powers of the old Congress. The limitation is contained in the following clause of the articles of confederation: "Congress shall have the sole and exclusive right of regulating the trade and managing all affairs with the Indians not members of any other States; provided that the legislative right of any State within its own limits be not infringed or violated."

Upon this clause and its proviso, the committee proceed to report: "In framing this clause, the parties to the federal compact must have had some definite objects in view; the objects that come into view principally in forming treaties, or managing affairs with the Indians, had been long understood, and pretty well ascertained in this country. The committee conceive that it has been long the opinion of the country, supported by justice and humanity, that the Indians have just claims to all lands occupied by, and not fairly purchased from them. The laws of the State can have no effect upon a tribe of Indians or their lands within a State, so long as that tribe is independent and not a member of the State. It cannot be supposed that the State has the powers mentioned," (those of making war and peace, purchasing lands from them and fixing boundaries,) "without absurdity in theory and practice. For the Indian tribes are justly considered the common friends or enemies of the United States, and no particular State can have an exclusive interest in the management of affairs with any of the tribes, except in uncommon cases." The Senate perceive the estimate that was formed of these State pretensions. The committee argue, with conclusive energy, that, to yield such powers to particular States, would not only be absurd in theory, but would in fact destroy the whole system of Indian relations—that this divided, alternate cognizance of the matter, by the States and by the Congress, could never be enforced, and would result in discordant and fruitless regulations. The grounds assumed in this able report are unanswerable. The committee regarded the subject as national, concerning the whole United

States, of whom the Indians were the common friends or foes.

That such a concern was too general and public in all its bearings, to be subjected to the legislation and management of any particular State. The Congress, therefore, assume the entire jurisdiction and control of it. And after this report, we hear no more of State protests. They yielded their claims to a much safer depository of this interesting trust. Sir, I take leave to say, that the sound, sensible principles of this report have lost nothing of their authority by time, and that every year of our history has confirmed their wisdom, and illustrated the justice and humanity of the Congress of '87.

The convention that formed and adopted the constitution, in their deliberations upon the security of Indian rights, wisely determined to place our relations with the tribes under the absolute superintendence of the General Government, which they were about to establish. The proviso under the old compact, that had, in ambiguous terms, reserved to particular States an undefined management of Indian affairs, was altogether discarded, and the simple unqualified control of this important branch of public policy, was delegated to Congress in the following clause of the constitution: "Congress shall have power to regulate commerce with foreign nations, among the several States, and with the Indian tribes." An incidental argument, in favor of my views, cannot fail to strike the mind on the face of this clause. The plea that is now, for the first time, urged against the Indians, rests upon the allegation, that the tribes are not distinct nations—that they compose a portion of the people of the States; and yet, in the great national charter, this work of as much collected wisdom, virtue, and patriotism, as ever adorned the annals, or shed light upon the government of any age or country, the Indian tribes are associated with foreign nations and the several States, as one of the three distinct departments of the human family, with which the General Government was to regulate commerce. Strange company, truly, in which to find those it now seems convenient to denominate a few poor miserable savages, that were always the peculiar subjects of State sovereignty, mere tenants at will of the soil, and with whom it is "idle" to speak of negotiating treaties.

There was another subject, closely connected with this, that engaged the anxious deliberations of the great statesmen who composed the memorable convention—and this was the treaty power. To found this well, was a concern worthy of their first and best thoughts. The good faith of a nation was not to be pledged but on grave and great occasions; for, when plighted, it brought the nation itself into obligations, too sacred to be argued away by the suggestions of policy or convenience, profit or loss. They, therefore, subjected the exercise of this high function to two great departments of the Government—the President and Senate of the



United States. They required formalities to attend the exercise of the power that were intended and calculated to guard the trust from rash and inconsiderate administration. But these requisites complied with, and a treaty made and concluded, no retreat from its claims was provided or desired by the convention. No, sir. To shut up every avenue of escape—to compel us to be faithful—"treaties" are declared, by the charter of our Government, "to be the supreme law of the land, any thing in the constitution or laws of any State to the contrary notwithstanding." How could the inviolate character of a treaty be more effectually preserved? Let convulsions agitate the commonwealth—let the strifes of party shake the pillars of the political edifice—around the nation's faith barriers are raised, that may smile at the storm. And, sir, if these guards fail, if these defences can be assailed and broken down, then may we indeed despair. Truth and honor have no citadel on earth—their sanctions are despised and forgotten, and the law of the strongest prevails.

I fear that I shall oppress the patience of the Senate by these tedious details; but the subject is deeply interesting, and each successive year of our political history brings me fresh and strong proofs of the sacred estimation always accorded to Indian rights. Sir, in the very next year that followed the formation of the constitution, on the 1st day of September, 1788, the encroachment of the whites upon the Indian territory, as guaranteed to them by the treaty of Hopewell, made with the Cherokees, as we have already stated, in 1785, caused a proclamation to be issued by Congress, of the date first mentioned, affirming in all things the treaty of Hopewell, and distinctly announcing (I give the literal clause) "the firm determination of Congress to protect the said Cherokees in their rights, according to the true intent and meaning of the said treaty." And they further resolve, "that the Secretary of War be directed to have a sufficient number of troops in the service of the United States in readiness, to march from the Ohio to the protection of the Cherokees, whenever Congress shall direct the same."

The next important event, in connection with the Cherokees, is the treaty of Holston, made with them on the 2d July, 1791. This was the first treaty negotiated with the Cherokees after the constitution. And it is only necessary to consider the import of its preamble, to become satisfied of the constancy of our policy, in adhering to the first principles of our Indian negotiations. Sir, let it be remembered that this was a crisis when the true spirit of the constitution would be best understood; most of those who framed it came into the councils of the country in 1788. Let it be well pondered, that this treaty of Holston was the public compact in which General Washington, as a preparative solemnity, asked the advice of the Senate, and concerning which, he inquired of that venerable body whether, in the treaty to be made, the

United States should solemnly guaranty the new boundary, to be ascertained and fixed between them and the Cherokees.

The preamble to this treaty I will now recite:

"The parties being desirous of establishing permanent peace and friendship between the United States and the said Cherokee nation, and the citizens and members thereof, and to remove the causes of war, by ascertaining their limits, and making other necessary, just, and friendly arrangements: the President of the United States, by William Blount, Governor of the Territory of the United States of America, south of the river Ohio, and superintendent of Indian Affairs for the Southern District, who is vested with full powers for these purposes, by and with the advice and consent of the Senate of the United States; and the Cherokee nation, by the undersigned chiefs and warriors, representing the said nation, have agreed to the following articles," &c.

The first article stipulates that there shall be "perpetual peace and friendship" between the parties; a subsequent article provides, that the boundary between the United States and Cherokees "shall be ascertained and marked plainly, by three persons appointed by the United States, and three Cherokees on the part of their nation."

In pursuance of the advice of the Senate, by the seventh article of this treaty, "The United States solemnly guarantee to the Cherokee nation all their lands not hereby ceded."

And after several material clauses, the concluding article suspends the effect and obligation of the treaty upon its ratification "by the President of the United States, with the advice and consent of the Senate of the United States."

Now, sir, it is a most striking part of this history, that every possible incident, of form, deliberation, advisement, and power, attended this compact. The Senate was consulted when our plenipotentiary was commissioned; full powers were then given to our commissioner; the articles were agreed upon; the treaty referred to the Executive and Senate for their ratification, and, with all its provisions, by them solemnly confirmed.

It requires a fulness of self-respect and self-confidence, the lot of a rare few, after time has added its sanctions to this high pledge of national honor, to attempt to convict the illustrious men of that Senate of gross ignorance of constitutional power; to charge against them that they strangely mistook the charter under which they acted; and violated almost the proprieties of language, as some gentlemen contend, by dignifying with the name and formalities of a treaty "mere bargains to get Indian lands." Sir, who so well understood the nature and extent of the powers granted in the constitution, as the statesmen who aided by their personal counsels to establish it?

Every administration of this Government, from President Washington's, have, with like solemnities and stipulations, held treaties with the Cherokees; treaties, too, by almost all of

APRIL, 1830.]

*Removal of the Indians.*

[SENATE.]

which we obtained further acquisitions of their territory. Yes, sir, whenever we approached them in the language of friendship and kindness, we touched the chord that won their confidence; and now, when they have nothing left with which to satisfy our cravings, we propose to annul every treaty—to gainsay our word—and, by violence and perfidy, drive the Indian from his home. In a subsequent treaty between the United States and the Cherokee nation, concluded on the 8th July, 1817, express reference is made to past negotiations between the parties, on the subject of removal to the west of the Mississippi; the same question that now agitates the country, and engages our deliberations. And this convention is deserving of particular notice, inasmuch as we shall learn from it, not only what sentiments were then entertained by our Government towards the Cherokees, but also, in what light the different dispositions of the Indians to emigrate to the West, and to remain on their adjacent patrimony, were considered. This treaty recites that application had been made to the United States, at a previous period, by a deputation of the Cherokees, (on the 9th January, 1809,) by which they apprised the Government of the wish of a part of their nation to remove west of the Mississippi, and of the residue to abide in their old habitations. That the President of the United States, after maturely considering the subject, answered the petitions as follows: "The United States, my children, are the friends of both parties, and, as far as can be reasonably asked, they are willing to satisfy the wishes of both. Those that remain may be assured of our patronage, our aid, and our good neighborhood. To those who remove, every aid shall be administered, and when established at their new settlements, we shall consider them as our children, and always hold them firmly by the hand." The convention then establishes new boundaries and pledges our faith to respect and defend the Indian territories. Some matters, by universal consent, are taken as granted, without any explicit recognition. Under the influence of this rule of common fairness, how can we ever dispute the sovereign right of the Cherokees to remain east of the Mississippi, when it was in relation to that very location that we promised our patronage, aid, and good neighborhood? Sir, is this high-handed encroachment of Georgia to be the commentary upon the national pledge here given, and the obvious import of these terms? How were these people to remain, if not as they then existed, and as we then acknowledged them to be, a distinct and separate community, governed by their own peculiar laws and customs? We can never deny these principles, while fair dealing retains any hold of our conduct. Further, sir, it appears from this treaty, that the Indians who preferred to remain east of the river, expressed "to the President an anxious desire to engage in the pursuits of agriculture and civilized life in the country they then occupied," and we en-

gaged to encourage those laudable purposes. Indeed, such pursuits had been recommended to the tribes, and patronized by the United States, for many years before this convention. Mr. Jefferson, in his message to Congress as early as 1805, and when on the subject of our Indian relations, with his usual enlarged views of public policy, observes: "The aboriginal inhabitants of these countries, I have regarded with the commiseration their history inspires. Endowed with the faculties and the rights of men, breathing an ardent love of liberty and independence, and occupying a country which left them no desire but to be undisturbed, the stream of overflowing population from other regions directed itself on these shores. Without power to divert, or habits to contend against it, they have been overwhelmed by the current, or driven before it. Now, reduced within limits too narrow for the hunter state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry which alone can enable them to maintain their place in existence; and to prepare them in time for that society which, to bodily comforts, adds the improvement of the mind and morals. We have, therefore, liberally furnished them with the implements of husbandry and household use; we have placed among them instructors in the arts of first necessity; and they are covered with the ægis of the law against aggressors from among ourselves." These, sir, are sentiments worthy of an illustrious statesman. None can fail to perceive the spirit of justice and humanity which Mr. Jefferson cherished towards our Indian allies. He was, through his whole life, the firm, unshrinking advocate of their rights, a patron of all their plans for moral improvement and elevation.

It will not be necessary (said Mr. F.) to pursue the details of our treaty negotiations further. I beg leave to state, before I leave them, however, that with all the southwestern tribes of Indians we have similar treaties; not only the Cherokees, but the Creeks, Choctaws, and Chickasaws, in the neighborhood of Georgia, Tennessee, Alabama, and Mississippi, hold our faith, repeatedly pledged to them, that we would respect their boundaries, repel aggressions, and protect and nourish them as our neighbors and friends; and to all these public and sacred compacts Georgia was a constant party. They were required, by an article never omitted, to be submitted to the Senate of the United States for their advice and consent. They were so submitted; and Georgia, by her able Representatives in the Senate, united in the ratification of these same treaties, without, in any single instance, raising an exception, or interposing a constitutional difficulty or scruple.

I have complained of the legislation of Georgia. I will now refer the Senate to the law of that State, passed on the 19th December, 1829, that the complaint may be justified. The title of the law would suffice for such pur-

pose without looking further into its sections. After stating its object of adding the territory in the occupancy of the Cherokee nation of Indians to the adjacent counties of Georgia, another distinct office of this oppressive edict of arbitrary power is avowed to be, "to annul all laws and ordinances made by the Cherokee nation of Indians." And, sir, the act does annul them effectually. For the seventh section enacts, "that after the first day of June next, all laws, ordinances, orders, and regulations of any kind whatever, made, passed, or enacted by the Cherokee Indians, either in general council, or in any other way whatever, or by any authority whatever, of said tribe, be, and the same are hereby, declared to be null and void and of no effect, as if the same had never existed." Sir, here we find a whole people outlawed—laws, customs, rules, Government, all, by one short clause, abrogated and declared to be void as if they never had been. History furnishes no example of such high-handed usurpation—the dismemberment and partition of Poland was a deed of humane legislation compared with this. The succeeding clauses are no less offensive; they provide that "if any person shall prevent by threats, menaces, or other means, or endeavor to prevent any Indian of said nation from emigrating, or enrolling as an emigrant, he shall be liable to indictment and confinement in the common jail, or at hard labor in the penitentiary, not exceeding four years, at the discretion of the court; and if any person shall deter, or offer to deter, any Indian, head man, chief, or warrior of said nation, from selling or ceding to the United States, for the use of Georgia, the whole or any part of said territory, or prevent, or offer to prevent, any such persons from meeting in council or treaty any commissioner or commissioners on the part of the United States, for any purpose whatever, he shall be guilty of a high misdemeanor, and liable, on conviction, to confinement at hard labor in the penitentiary, for not less than four, nor longer than six years, at the discretion of the court." It is a crime in Georgia for a man to prevent the sale of his country, a crime to warn a chief or head man that the agents of the United States are instructed "to move upon him in the line of his prejudices," that they are coming to bribe him to meet in treaty with the commissioner. By the way, sir, it seems these treaties are very lawful, when made for the use of Georgia.

It is not surprising that our agents advertised the War Department, that if the General Government refused to interfere, and the Indians were left to the law of the States, they would soon exchange their lands and remove. To compel, by harsh and cruel penalties, such exchange, is the broad purpose of this act of Georgia, and nothing is wanting to fill up the picture of this disgraceful system, but to permit the bill before us to pass without amendment or proviso. Then it will all seem fair on

our statute books. It legislates for none but those who may choose to remove, while we know that grinding, heart-breaking exactions are set in operation elsewhere, to drive them to such a choice. By the modification I have submitted, I beg for the Indian the poor privilege of the exercise of his own will. But the law of Georgia is not yet satisfied. The last section declares, "that no Indian, or descendant of any Indian, residing within the Creek or Cherokee nation of Indians, shall be deemed a competent witness in any court of this State, to which a white person may be a party, except such white person resides within the said nation." It did not suffice to rob these people of the last vestige of their own political rights and liberties; the work was not complete until they were shut out of the protection of Georgia laws. For, sir, after the first day of June next, a gang of lawless white men may break into the Cherokee country, plunder their habitations, murder the mother with the children, and all in the sight of the wretched husband and father, and no law of Georgia will reach the atrocity. It is vain to tell us, sir, that murder may be traced by circumstantial probabilities. The charge against this State is, you have, by force and violence, stripped these people of the protection of their Government, and now refuse to cast over them the shield of your own. The outrage of the deed is, that you leave the poor Indian helpless and defenceless, and in this cruel way hope to banish him from his home. Sir, if this law be enforced, I do religiously believe that it will awaken tones of feeling that will go up to God, and call down the thunders of his wrath.

The end, however, is to justify the means. "The removal of the Indian tribes to the west of the Mississippi is demanded by the dictates of humanity." This is a word of conciliating import. But it often makes its way to the heart under very doubtful titles, and its present claims deserve to be rigidly questioned. Who urges this plea? They who covet the Indian lands—who wish to rid themselves of a neighbor that they despise, and whose State pride is enlisted in rounding off their territories. But another matter is worthy of a serious thought. Is there such a clause in our covenants with the Indian, that when we shall deem it best for him, on the whole, we may break our engagements, and leave him to his persecutors? Notwithstanding our adversaries are not entitled to the use of such humane suggestions, yet we do not shrink from an investigation of this pretence. It will be found as void of support in fact as the other assumptions are of principle.

SATURDAY, April 10.

*Confirmation of certain Land Claims.*

On motion of Mr. ELLIS, the Senate proceeded to the consideration of the bill for confirming certain claims to lands in the district of

APRIL, 1830.]

*Confirmation of certain Land Claims.*

[SENATE.]

Jackson Court House, in the State of Mississippi; and, after a brief explanation, Mr. ELLIS moved to amend the bill, by striking out "the minimum price," and inserting "fifty cents per acre."

Mr. Foor said he thought it would hardly consist with the plighted faith of the Government to adopt the amendment. The United States had given their pledge that no land should be sold at a price less than that fixed by law; and as the minimum price was now fixed at one dollar and twenty-five cents per acre, these lands ought not to be given for a lower sum, unless the law was changed so as to operate equally on all purchasers.

Mr. ELLIS replied, that it was not his intention to embarrass the bill at this late period of the session, and he would therefore withdraw his amendment.

Mr. FOESYTH said, if he understood the subject rightly, the bill provided for confirming the claim of one individual to twelve hundred and fifty acres only, when that individual claimed one hundred thousand acres under a Spanish grant. If this person had a just title to the whole one hundred thousand acres, he ought to have it. He believed that the passage of the law would be either an injury to the individual, or to the United States, for if his title was not good for the whole amount claimed by him, it was defective as to the number of acres proposed to be confirmed to him.

Mr. ELLIS said the title of Lewis Baudray to one hundred thousand acres of land was unquestionable; and was derived from a Spanish grant made as far back as the year 1790. It was well known to the Senate, that Congress had invariably refused to sanction confirmations to large grants. There were the grants to Maison Rouge, Baron Bastrop, &c., which Congress refused to sanction, solely on the ground that they were for such large tracts. He had no doubt that, under the treaty, all the claimants were entitled to the lands they held under Spanish grants, because the treaty expressly stipulates that their rights shall be guaranteed to them. With respect to the proviso objected to by the gentleman from Georgia, he was in favor of it, inasmuch as it gave to Lewis Baudray a complete title to twelve hundred and fifty acres; and if he chose to accept that in lieu of the large grant he claimed under it, was his own consideration.

Mr. FOESYTH said there was something in the matter he did not distinctly understand, and the difficulty was increased by the report. In the list of claims was that of Lewis Baudray, confirmed to his wife Margaret Morales, in 1808, with testimony of inhabitation and cultivation, but there was no order for the survey to take place.

Mr. BARTON said that the usual course pursued to obtain grants of land under the Spanish authorities, had been first to obtain a warrant of survey, so that there might be no dispute of title; this was not always done, nor

was it absolutely necessary. The settlement of a tract of land, and proof of inhabitation and cultivation for three years, was sufficient to perfect the title. This individual, if he had not complied with the letter of the law, had, at all events, made the settlement: for the fact of inhabitation from 1808 to 1828, was distinctly proved. Thousands of such cases had occurred in Missouri, and indeed in all the country which was obtained under the Louisiana purchase, and Congress had passed laws to confirm such grants: for it frequently happened that no survey had been made; but the occupation and cultivation was deemed sufficient, and the United States surveyor laid off the tracts. He was satisfied that, in this case, there had been an original concession, as it was called, or warrant of survey, which may have been lost; and it was also highly probable that the Spanish officers had exceeded their powers; but by limiting the confirmation to the number of acres provided for in the bill, justice would be done both to the United States and to the individual.

Mr. BIBB offered the following proviso, as an amendment: "But shall be in satisfaction and extinguishment of the claim or demands of said claimants, respectively, to any other or greater quantity of land, as against the United States; and all persons or person claiming, or to claim, under the United States."

Mr. ELLIS regretted that the Senator from Kentucky had offered this amendment. If he would reflect, he would see that it was in contravention of the treaty of France, by which Louisiana was acquired. The treaty provided, that every person inhabiting the ceded territory, should be protected in the enjoyment of his life, religion, and property. These rights were considered as property, and, consequently, the adoption of the amendment would be a violation of the rights secured by the treaty.

Mr. BIBB said it was important to enforce the principle, that those who did not present their claims, and support them by proper testimony, should forfeit them. Congress had appointed commissioners to examine into the validity of all Spanish grants, and those who did not present before them their testimony to establish their titles, could not now have very strong claims on the United States. It was not safe to the Government to leave such important subjects still undecided.

After a few remarks from Messrs. BARTON, ADAMS, and KANE, in opposition, and Mr. BIBB, in support of the amendment, the question was taken, and it was rejected.

Mr. Foor said, if he was not very much mistaken, this bill would introduce an entirely new principle in our land legislation. He hoped that the faith of treaties might be rigidly adhered to, and their provisions strictly enforced, in every instance. If he rightly understood the provisions of the bill, it not only secures the Spanish claimants in all their rights, but it even goes farther, it secures to them

rights which they had never yet satisfactorily established. He was desirous of obtaining further information, before he could vote for the bill. He said that there was no case, within his recollection, in which the United States Government had passed laws to make up the deficiency of Spanish titles. It was, therefore, he believed, an entirely new principle in legislation; and he was not, with the present lights, prepared to support it.

The question was then taken, and the bill ordered to be engrossed and read a third time—ayes 21.

*Surgeon General of the Navy.*

On motion of Mr. HAYNE, the bill creating the office of Surgeon General of the Navy was taken up.

Mr. HAYNE said that, previous to taking the question on the passage of this bill, he wished to avail himself of the advantages suggested by his friend from Virginia, (Mr. TAZEWELL,) when this bill was under discussion on a former day; and, in accordance to the views of that gentleman, introduced a clause for the regulation of the navy ration. He knew of no better mode of increasing the comforts, adding to the enjoyments, and promoting the health, of our seamen, than by the amendment he was about to introduce. It was, he said, very desirable that the crews of our public vessels should be supplied with as many of those articles of comfort, to which they have been accustomed, as the interests of the navy and the country would permit. The experience of England and France, to which he had alluded on a former day, afforded some light on this subject, and their naval regulations, with respect to the ration, were now before him. He did not design to follow either; but he wished to introduce an amendment which would enable the President to try, at such times and places as he might deem most suitable to the comforts of the sailor and the interests of the country, how far sugar, coffee, cocoa, wine, and raisins, might be substituted for the beef, pork, and whiskey, with which our crews are at present supplied. In no instance, however, would the ration exceed twenty-five cents, as provided for by the present law. The British ration amounted to about twenty-two cents.

In introducing this amendment, his object was to make an experiment, and to see how far our efforts may tend to introduce a system of temperance in the navy—temperance, such as entire abstinence from spirituous liquors, being among the schemes of the day. He was not disposed to think that such a scheme would suit the navy at present. Indeed, he thought, if it were enforced, that it would be impossible to get crews. But a gradual change might be effected, both in the appetite, the manners, and morals, of our sailors, by judicious regulations; and, if part of their grog was exchanged for tea and coffee, &c., he was of opinion that it

would have a happy effect on the health, the morals, and the constitution, of our tars.

Mr. HOLMES wished to know if it was intended that the sailor should receive money in part for his grog. If so, the evil complained of by Mr. HAYNE would not be prevented; because, so soon as the sailor got his money, he would go off and purchase grog. This was the evil Mr. H. would like to see prevented.

Mr. HAYNE replied, that the object and effect of the amendment would be to enable the Executive to allow, as circumstances require it, the sailor to draw only part of the grog at present allotted to him, and to supply him with sugar, wine, coffee, &c., for the remainder.

Mr. SPRAGUE wished to have the amendment so modified as to embrace the midshipmen; because it is well known that the use of spirituous liquors among this class of our naval officers has already produced alarming and painful consequences. A boy goes on board one of our public vessels, and, in a few years, he, by a most improper use of ardent spirits, becomes a most incorrigible drinker; and is soon incapable of serving either himself or his country.

Mr. HAYNE said he had no objection to the modification proposed by Mr. SPRAGUE, and would accept it; though he thought the gentleman was misinformed as to the facts or evils which he alluded to. Mr. H. did not think that intemperance prevailed among our midshipmen. They, for the most part, drank wine, which was not furnished them by the Government, as the gentleman from Maine (Mr. SPRAGUE) appeared to think, but was laid in by one of their own mess, previous to embarkation for a cruise. They, the midshipmen, drew pay for the ration, and supplied themselves with whatever luxuries or necessaries they might think proper; so that, if the modification proposed by Mr. S. was adopted, it would not have the effect intended.

Mr. HAYNE's amendment was then agreed to.

Mr. DICKERSON said he thought the passage of the law would be establishing an unnecessary office. He thought it would be better to leave the purchase of medicines to the surgeons who go out in our ships of war, who would thus, as it was important they should, always supply themselves with fresh drugs. If, as argued by the gentleman from South Carolina, it was important for the surgeons at sea to make reports, though he did not see the importance of it, it might be done as heretofore; there was no necessity for creating an office merely to receive reports. He had heard retrenchment and economy much talked of, and he should like to see it put into practice. He was opposed to the creation of unnecessary offices; he had recorded his vote in opposition to retaining a major-general in the army, and, as he wished to be understood, he should ask for the yeas and nays, that he might record his vote against this bill.

Mr. SMITH, of Maryland, said he had not

APRIL, 1830.]

*Attorney-General's Department.*

[SENATE.]

much respect for that word "retrenchment." Reform was desirable and necessary; that reform which lops off useless expenditures, corrects abuses, gives a judicious direction to the public money, and secures a faithful and effectual performance of the public business; and it was evident to his mind, from the effects of a similar arrangement in the medical department of the army, that such would be the consequence of this bill, if carried into a law. Mr. S. went on to show that, from the losses sustained from medicine, after the termination of a cruise, that the actual saving to the Government, which the provisions of this bill would ensure, would amount to twenty thousand dollars per annum, at the very lowest calculation.

Mr. HAYNE, in continuation, argued that, by the passage of the bill, great expense in the medical department of the navy would be saved, and the health and comfort of the seamen would be promoted. He showed, from a report from the War Department, part of which he read, that, by the adoption of the system in the army, order and regularity had taken place of confusion, and an annual saving was made of near forty thousand dollars. The bill did not proceed entirely from the Naval Committee, but was the result of a thorough examination of the subject, and of a fair and perfect understanding with the Navy Department.

Mr. HOLMES observed, that he did not object to the bill in consequence of the additional expense that might be incurred (if, indeed, there should be any additional expense) on so important a subject as the health and comfort of our seamen, if he thought the proposed plan would effect the object it contemplated. He had long thought that the method of putting up medicines, both for our navy and merchant service, was extremely defective, and that some improved system ought to be adopted. He recollected having introduced a bill, at one period, to correct this evil in the merchant service, by requiring a strict examination of the medicine chests of all vessels sailing from our ports; but the bill, he believed, never was acted on. But he thought it extremely doubtful whether one officer (a Surgeon General) could perform the duties contemplated in the bill, or rather, he doubted whether he could correct the evils complained of, and provided against in the latter clause of the bill. He thought the general proposition a good one; but he would inquire if the Surgeon General could carry it into operation? He asked if this officer could be present at Key West and Boston, Pensacola and New York, Portsmouth and Norfolk, Baltimore and New Orleans, or any other port from which our public vessels were about to sail, in order to purchase, superintend, and inspect, the medicines for the cruise? and also to be present at the different ports at which these vessels may arrive on their return, in order to examine and decide what medicines are, and what are not, fit for future use? It

was evident, Mr. H. said, that there must be some one, on whose judgment they could rely, present at the different ports, to carry the object of the bill into effect. It seemed, therefore, that, though the design was good, there would be insuperable difficulties in the execution.

After a few observations from Mr. DICKERSON,

Mr. HAYNE said he would offer a few words in explanation, as to the difficulties and objections urged by the gentlemen from Maine and New Jersey. The medicines, like all other naval stores, will be furnished on requisitions from the proper department, in the same manner as he supposed the samples would be sent on to the Surgeon General for examination, and by his orders were furnished in the army. They would be put up and secured under the immediate inspection of the proper inspecting officer. The gentleman from New Jersey has said, that those medicines which remain, after the return of a vessel from a cruise, are entirely "worthless; and, consequently, it was unnecessary to provide for their preservation afterwards." Such might be the case; but if it were, it was to be attributed to the evils complained of, and for which the bill provided a remedy. It was well ascertained, by men of science, that, if medicines were properly put up, if they were secured from the action of light and air, that they would be as good at the end of one, two, or three years, as they are on the first day.

The question was then taken, and the bill was ordered to be engrossed by the following vote: yeas 36, nays 6.

MONDAY, April 12.

The Senate was engaged this day for more than six hours on Executive business.

TUESDAY, April 18.

*Attorney-General's Department.*

On motion of Mr. ROWAN, the Senate took up the bill to organize the Attorney-General's Department, and to erect it into an Executive office.

Mr. BARTON deemed the bill a very inadequate remedy for any existing evils in the law department of the Government, or in the manner of collecting the revenue. He thought the measure proposed inexpedient. He thought that, where an evil did exist, a proper remedy ought to be applied; and believing that the Government of the United States was old enough, a Home Department, to take charge of the internal concerns of the country, ought to be established. His opinion was, that the period was not very remote, if it had not now arrived, when it would be necessary to confine the Secretary of State to the appropriate duties

of his office, and transfer the internal concerns of the country to another department. As to the Attorney-General, he ought to conduct a subordinate branch of the Home Department, and not be the head of it, as proposed by the bill, which made him half a law officer, and half a head of a Department, with a large increase of salary for various duties which he cannot perform. If this bill passed, and the Attorney-General was metamorphosed into the head of a bureau, an assistant must be appointed, who, like all other deputies, would have to perform most of the duties.

Mr. ROWAN moved to fill the blanks in the bill so as to give to the clerk to be appointed a salary of fourteen hundred dollars per annum, and to the messenger and assistant messenger, the salaries of seven hundred dollars and three hundred and fifty dollars; which motions were carried.

Mr. FORSYTH moved, as an amendment, a proviso, that "the Attorney-General shall not, during his continuance in office, engage in any private practice in the courts of the United States, or of the States." It appeared to Mr. F. that the duties prescribed to the Attorney-General by the bill would require his undivided attention, and render it impossible for him to attend the courts, unless to conduct cases in which the United States were concerned.

Mr. ROWAN said, that the objections urged, and the remedy proposed, by the gentleman from Georgia, (Mr. FORSYTH,) had occurred to the committee who reported the bill, but the evils did not appear to them in the same light that they had appeared to strike the mind of the gentleman from Georgia. Indeed, he thought the amendment rather a matter of supererogation. If it should be found that, after the performance of all the duties prescribed in the bill, together with the duties already imposed on him, the Attorney-General had still leisure, he was of the opinion that, by employing such leisure in the practice of the higher courts of law, his intellect would be strengthened, his mind improved, and his legal acquirements increased, so as to enable him to render more efficient and distinguished service to the Government. If the duties of the office should engross the whole time of the Attorney-General, then the amendment would be entirely unnecessary. It appeared, therefore, that the amendment was either unnecessary or injudicious. As he had said before, it would be unnecessary, if the duties prescribed in the bill should engross his whole time, because it would then be impossible for him to attend to private practice; and, if he should have leisure, after performing his public duties, it would be injudicious, nay, injurious to the United States, to prevent him from that intellectual exercise which would prepare him for the more effectual performance of his public duties.

Mr. FORSYTH observed that he admitted the correctness of the observation of the gentleman from Kentucky, (Mr. ROWAN,) that the

exercise of the faculties not only sharpens, but invigorates the human faculties; and the only difference between the gentleman from Kentucky (Mr. R.) and himself, was this: Mr. R. appears to apprehend, that, after a faithful and thorough performance of all the duties imposed by the bill, in addition to those already assigned him, the Attorney-General will have sufficient leisure to attend to private practice. Mr. F. thought differently. The duties of the office would be great and various. Independent of the present duties of the office, he would have others from the Land, the Treasury, and the Patent Office—he would be subject to the orders of the President of the United States, and would be liable to be called on to go to any part of the United States, to represent the nation in the courts of justice. If such were to be the outline of his duties, (and it appeared to him that the bill pointed to that course,) there would not be much time left to devote to private practice, if the public business received proper attention. But even if it should not engross all his time, and he should engage in the service of private individuals, he cannot foresee what time the public service will demand his attention; and if he should endeavor to secure the emoluments of private practice, it will often be at the expense of his official duties, and consequently, injurious to the interests of the United States. He thought that nothing ought to be left to the discretion of the Attorney-General. The salary was sufficient to secure the highest grade of professional talent, and he presumed it was thought so by the committee who reported the bill. It was as great as the compensation allowed to any of the heads of Department, or any of the high officers of Government, and these were all prohibited from the practice of law in all the inferior courts of the United States; and he thought they ought also to be prohibited from practice in all courts. He said he had no particular anxiety about either the bill or the amendment; but if the one was carried into operation, he thought the other should succeed.

Mr. HOLMES thought that his motion to recommit was sufficiently distinct, and understood by every gentleman. He thought that some of the duties, if not all, proposed by the bill to be imposed on the Attorney-General, should be done by another Department. It did not become him to direct the committee; he did not think it proper for him to do so; they ought on all such matters to have a proper latitude given them. To say that if his resolution prevailed the bill could not be perfected this session, was no argument with him; neither of the Executive Departments were perfected at once: all of them were gradually established as experience and expedience showed and prescribed. He was opposed to this bill, because he was opposed to the creation of an unnecessary office. Where an office was really necessary, he never would be found to vote against its establishment.

APRIL, 1830.]

*Attorney-General's Department.*

[SENATE.]

Mr. McKINLEY said he was not very solicitous about the bill; nevertheless, he considered that a change was necessary in the organization of the Law Department of the Government; and if gentlemen would devise a better one than the present, he would yield it his support. He believed that in no country was the Law Department in so wretched a condition as in the United States. Some of our most important legal affairs are intrusted to an officer who, he believed, was no lawyer; and whose compensation was not sufficient to command a high grade of intellectual endowment. Mr. McK. said he knew a circumstance which illustrated this position. It related to the celebrated Yazoo claim. The amount was large, and the District Attorney of the United States was directed by the Comptroller to make the best defence he could for the Government; but not one tittle of testimony was furnished him for that purpose. This, and such evils as this, would be corrected by the provisions of the bill. It will then become the duty of the Attorney-General to direct the District Attornies, and to furnish them with the best testimony that can be procured to substantiate the claims of the Government, or to defend it from the imposition of creditors. If this course were pursued, and a rigid responsibility introduced, those abuses that have crept in would be corrected; and he believed that a saving from half to a million of dollars annually, to the Government, would be the result. He thought it would not be so difficult to induce gentlemen of the first legal and intellectual powers to accept the office, as the gentleman from Massachusetts (Mr. WEBSTER) seemed to think. If, however, a better remedy for the evil were devised, he would have no objections to give it his support.

Mr. FRELINGHUYSEN felt friendly to the bill, but was opposed to those sections which imposed on the Attorney-General the task of superintending the concerns of the Patent Office, and the publication of the laws. It was highly important, however, that some officer should be appointed to attend to the collection of the revenue, and to direct the various suits which it might become necessary for the United States to bring. The Senator from Missouri admitted there were evils in the present system, and he hoped he would agree to apply the remedy to a part of them, if the whole could not be reached. It had been stated some days ago, by a Senator on this floor, (Mr. WEBSTER,) that a bill had been in progress, and considerably matured, in the other House, to appoint an officer to manage the important business of the collection of the revenue; but that the friends of the bill had abandoned it in despair, because of the numberless applications from incompetent persons for the office to be created. Now, said Mr. F., that will always be the case, unless you establish an office with a high salary, and requiring the talents of an eminent jurist. It was not necessary that the law officer to be ap-

pointed should personally attend to petty collections; but let him be the head of the system—let it go abroad that such an officer has the charge of the business, and all those inferior agents who have been complained of will feel his power, and properly attend to the duties.

Being in favor of the system, though with some slight objections to the present bill, he should vote for the motion of the Senator from Maine, (Mr. HOLMES,) to re-commit it, that it might be again presented in a more favorable shape.

Mr. SANFORD advocated the bill.

Mr. HOLMES observed, that the salary of the Attorney-General was now fixed at three thousand five hundred dollars per annum; and the reason why it was not so large as the salaries of other heads of Departments was, that, by being permitted to pursue his other avocations, which were acknowledged to be profitable, he more than made up to himself the amount of compensation received by the others who were confined to their offices. If this bill intended to establish a Home Department, let it be called so, and made so, instead of legislating for the benefit of a particular individual, and giving him the high salary of a head of a department, and permitting him to devote his time to the practice of his lucrative profession. This was legislating for the people—economy and retrenchment with a vengeance. Mr. H. had intended to offer a resolution to re-commit the bill, with instructions to report one to establish a Home Department; but for us in the minority, said he, there is little chance of our successfully maintaining any proposition we make.

Mr. JOHNSON thought the time had arrived when an attempt at least should be made to organize a department such as that contemplated by the bill. There were duties, he said, appended to the Treasury, State, and War Departments, which did not properly belong to them; and which ought to be transferred to a separate and distinct department. He approved of the bill as far as it goes. There ought, he thought, to be a head through the agency of which the claims, &c., of our Government against individuals, should be prosecuted, and debts due the Government collected. He said that, at the present time, the debts due the United States amounted to near four millions of dollars; and that the greater part of this sum was in suit, and the agency of which was reposed in the hands of an officer, who, though a good and meritorious one, was no lawyer, and had consequently to depend, in the prosecution of his duty, on the legal advice of the Attorney-General. He thought, therefore, that there was not that strict responsibility in the present system, which the magnitude of the office demanded; and which he believed the provisions of the bill would meet. But there were others, and anomalous duties, imposed on the Attorney-General by the bill, to which Mr. J. objected. Our Indiana, our Patent Office, and



public lands, required another department. The Navy had its appropriate duties; but he could not see what relation Indian affairs had to the War Department, the Patent Office to the State Department, or the public lands with the Treasury, to which they are at present attached. The duties of these offices were of sufficient importance to demand a separate department independent of the law office, provided for in the bill. He did not know whether the term Home Department would be an appropriate name for the office to which these duties should be arranged; but the subject had been so long before the public, and had been so ably and so minutely discussed, that he presumed all were acquainted with the meaning it conveyed, and the duties to be assigned it.

Mr. WEBSTER doubted the existence of the evils the bill was proposed to remedy. He should like much to see in detail, the losses and crosses that had been so much complained of. It was easy to say, that the Government had sustained losses under the present system; it might be true, or there might be an error as to facts. Every great creditor, like the Government of the United States, necessarily had bad debts; but this usual consequence of large dealings, was no evidence of the badness of the system. His opinion was, the system wanted enlargement, not change. He did not believe any good would result from the metamorphosis of the Attorney-General into the head of a bureau; nor did he believe it possible for any one individual to attend to the duties of both departments. One word as to the amendment proposed by the gentleman from Georgia. His (Mr. F.'s) opinion was, that, if the bill created an executive officer—a head of a department, with a salary equivalent to that of the heads of the present Executive Departments—he should confine himself strictly to the duties of his office, and be debarred from engaging in any law practice in which the United States was not concerned. Now, said Mr. W., that is as reasonable as for a gentleman to tell his physician, that he should not feel the pulse of any other human being. He, (Mr. W.,) if the bill passed, would go farther than the gentleman from Georgia; he would say to such an officer, you shall not only not engage in any private practice, but you shall not be trusted with the management of any law business of the Government. Make this proviso, said Mr. W., and the bill would be a sensible one; the officer would be, what he ought to be, an agent of the Treasury; leaving the Attorney-General to manage the law concerns of the Government, and, by continual practice, to keep himself bright in his profession.

Mr. W. then argued on the inconsistency of combining the Law Department with a branch of the Treasury Department; of confining the highest law officer of the Government to the desk of a bureau, examining accounts, and superintending clerks, instead of sending him

into the courts; and contended that the bill imposed duties on the Attorney-General impossible for him to perform consistently with the duties rightly belonging to him.

Mr. KING then moved to lay the bill on the table. A bill, he said, was under discussion, some days past, reported by the Committee on Indian Affairs, providing for the removal of the Indians west of the Mississippi; and as there was no probability that a final decision could be made at present on the bill before the Senate, he wished the one he had mentioned taken up and disposed of.

The motion was agreed to.

THURSDAY, April 15.

*Removal of the Indians.*

The Senate resumed the bill to provide for an exchange of lands with the Indians.

In reply to Mr. FRELINGHUYSEN, Mr. FORSTH said:

I regret, sir, that the amendment to the bill, proposed by the Senator from New Jersey, is not more definite and precise. His explanation of its purpose is not more satisfactory, than the amendment itself, and it is only by looking to his speech that we are relieved from embarrassment. His amendment and explanation leave us to conjecture whether he intends that the United States shall interfere with the Indians in the old States north of the Roanoke or not. His speech was plain enough. The Indians in New York, New England, Virginia, &c., &c., are to be left to the tender mercies of those States, while the arm of the General Government is to be extended to protect the Choctaws, Chickasaws, Creeks, and especially the Cherokees, from the anticipated oppressions of Mississippi, Alabama, and Georgia. We thank the gentleman for his amiable discrimination in our favor. He, no doubt, hopes that his zeal and industry in the Indian cause will be crowned with success; that he will be able to persuade the Senate, and his friends in the House of Representatives, to interfere, and compel the President to take new views of the relative power of the State and General Governments, and that under these new views the physical force of the country will be used, if necessary, to arrest the progress of Georgia. The expectation the gentleman has expressed, that Georgia will yield, in the event of this desirable change in the Executive course, is entirely vain. The gentleman must not indulge it; with a full and fair examination of what is right and proper, Georgia has taken her course and will pursue it. The alternative to which the Senator looks, of coercion, must be the result. While I entertain no fears that the gentleman's hopes will be realized, I consider it a matter of conscience, before entering upon the discussion of the general subject of the bill, to relieve the Senator from any apprehension that it may become necessary to cut white throats in Georgia to preserve inviolate the national

APRIL, 1830.]

*Removal of the Indians.*

[SENATE.]

faith, and to perform our treaty engagements to the Indians. It is true, the gentleman displays no morbid sensibility at the idea of shedding the blood of white men in this crusade in favor of Indian rights.

[Mr. FRELINGHUYSEN explained: he did not say he felt no morbid sensibility at the idea of shedding blood in defence of the Indians.]

Mr. FORBETH continued: I would not misapprehend the gentleman for the world, and no inducement could tempt me to misrepresent him; but I cannot be mistaken in the impression made by his remarks. The gentleman eulogized Mr. Jefferson for his letter to General Knox, of the 10th of August, 1791. He dwelt with peculiar emphasis on the spirit of that letter, and said Mr. Jefferson had no morbid sensibility at the idea of shedding blood in defence of the Indians against the whites. He wished ardently that the present Executive had spoken with the firmness and in the spirit of that letter to Georgia; he believed Georgia would have yielded, and would now yield to such language from the Executive; if she did not, the responsibility of the blood shed would be upon her head. Now, sir, although we dread no responsibility, I have so much kindness for the Senator as to wish to satisfy him, that there is no occasion for an assault upon us, notwithstanding he displayed so little sympathy for the whites—a circumstance not wonderful, however—having exhausted all his sympathy upon the red men, none for the whites could be reasonably looked for from him. I propose, then, sir, for his relief, to show that, considering this as a treaty question, arising under a fair exercise of the treaty-making power with a foreign Government, entirely unconnected with any disputes about the relative power of the State Government, and the Government of the United States, that Georgia stands perfectly justified, upon his own principles, in the steps she has chosen to take with regard to those Cherokees who reside within her territorial limits. The gentleman asserts that the Creeks and Cherokees are acknowledged to be independent nations, by treaties made, first with Georgia, and lastly with the United States; that the independence of those tribes is guaranteed by the United States; that treaties with the United States are the supreme laws of the land, and must be executed, although in collision with State constitutions and State laws. The independence of the tribes rests on this argument—that the formation of a treaty is, between the parties, an acknowledgment of mutual independence. I will not stop to show the numerous exceptions to this rule; insisting, however, that the gentleman shall admit, what I presume nobody will deny, that the two parties to a treaty, independent when it was made, may, by the terms of that instrument, change their characters, and assume those of sovereign and dependent. The gentleman has thought proper to refer to the Creeks; why, I cannot tell; they, at least, have now no busi-

ness with Georgia. We are rid of them, and I hope the gentleman has no desire to bring them back upon us to aid the Cherokees. But, as he has referred to them, I will ask his attention to the first article of the treaty of Galphinton, concluded on the 12th November, 1785, parts of which he has himself quoted:

“Article 1. The said Indians, for themselves, and all the tribes or towns within their respective nations, within the limits of the State of Georgia, have been, and now are, members of the same, since the day and date of the constitution of the said State of Georgia.”

Is not this article broad enough to sustain the claim of the State to the sovereignty over the Creeks? If they were members of the State, as they acknowledged themselves to have been, from the adoption of the constitution of Georgia, what became of their separate and independent character as a nation or tribe? So much for the Creeks. I will not, in tenderness to the lately defunct administration, say more on this chapter of our Indian history. How stands it with the Cherokees? Their situation differed from that of the Creeks in this: all the Creeks who were within the United States occupied land within the territorial limits of Georgia; the Cherokees occupied a territory in North Carolina, South Carolina, and Georgia, the greater number being in North Carolina. The treaty of De Wett's Corner, formed May 16, 1777, with South Carolina and Georgia, by the Cherokees, settles the question with the Cherokees. The first article of this treaty is in these words:

“Art. 1. The Cherokee Nation acknowledged that the troops, during the last summer, repeatedly defeated their forces, victoriously penetrated through their lower towns, middle settlements and valleys; and quietly and unopposed, built, held, and continue to occupy, the fort at Esenneca, thereby did effect and maintain the conquest of all the Cherokee lands eastward of the Unicaye mountain; and to and for their people, did acquire, possess, and yet continue to hold, in and over the said lands, all and singular, the rights incidental to conquest; and the Cherokee nation, in consequence thereof, do cede the said lands to the said people, the people of South Carolina.”

You see, sir, the Cherokees admit that South Carolina had, by conquest, acquired a right to all the land in the valleys below the Unicaye mountains. These mountains lie in Tennessee, beyond the territorial claims of South Carolina and Georgia. South Carolina conquered the country from their red neighbors; the right of conquest is admitted: the benefit of that conquest was, according to the well-known rights of Georgia and South Carolina, with both of whom the treaty was formed, to be enjoyed respectively by those States. But this is not all: no subsequent change in the political condition of the United States can be used as a pretext for denying to Georgia the claim to sovereignty over the Cherokees within her

limits. We stand impreguably fortified upon treaties to which the United States are parties. Every professional man who remembers his Blackstone, knows that legislation is the highest act of sovereignty. Now, sir, by the ninth article of the treaty of Hopewell, of the 28th November, 1785, a treaty which begins with these words: "The United States give peace to all the Cherokees, and receive them into their favor and protection;" strange words to be used to an unconquered and independent nation, the Cherokees surrender to Congress the power of legislating for them at discretion. I pray the gentleman to hear it.

"For the benefit and comfort of the Indians, and for the prevention of injuries or oppressions on the part of the citizens or Indians, the United States in Congress assembled, shall have the sole and exclusive right of regulating trade with the Indians, and managing all their affairs in such manner as they think proper."

This treaty, with all its burthens and benefits, fell to the new Government under the constitution, when it was established, and the power of legislating at discretion, to prevent injuries or oppressions on the part of the citizens or Indians, was one of the benefits secured by it. So much for the independence of the Cherokee nation. It may be asked, however, what has this treaty to do with the question between Georgia and the Cherokee Government? It does not follow that, because the United States have sovereignty over the Cherokees, that the State has it. The compact made by the United States with Georgia, in 1802, furnishes the satisfactory answer to this inquiry. The United States, having acquired, by the ninth article of the treaty of Hopewell, the power of legislation over the Cherokees, had the goodness to transfer it to the State. Let us see, sir, what this compact is. By the first article, Georgia ceded to the United States all her right, claim, title, &c., to the jurisdiction and soil of the lands lying west of the Cattahoochie, as far as Mississippi, &c., on specified conditions. By the second article, the United States accept the cession on the conditions expressed, and they "cede to the State of Georgia, whatever claim, right, or title, they may have to the jurisdiction and soil of any lands, lying within the United States, and out of the proper boundaries of any other State, and situated south of the southern boundaries of the States of Tennessee, North Carolina, and South Carolina, and east of the boundary line herein above described, as the eastern boundary of the territory ceded by Georgia to the United States." The Senator from New Jersey may be assured, that the Cherokees, over whom the Georgia laws are to operate, live upon the territory described in the second article of the compact of 1802, south of Tennessee, North Carolina, and South Carolina, and east of the Cattahoochie. Gentlemen may amuse themselves with finding fault with this transfer by the United States of a power granted to them,

and intended to be used by the United States only. They may prove it, if they choose, an act of injustice to the Cherokees—a violation of faith. We will not take the trouble to interfere with such questions. The United States obtained, by treaty, the power to legislate over the Cherokees, and transferred it to Georgia. The justice and propriety of this transfer must be settled by the United States and the Cherokees. In this settlement Georgia has her burthen to bear, as one of the members of the Union; but no more than her fair proportion. If any pecuniary sacrifices are required to do justice to the injured, let them be made: if a sacrifice of blood is demanded as a propitiation for this sin, to avert the judgment of Heaven, let the victim be selected. Justice demands that it be furnished by the whole country, and not by Georgia; and if the honorable Senator from New Jersey will fix upon one between the Delaware and the Hudson, he will escape all imputations of being actuated by any motive but the love of justice—pure justice. For us it is enough to have shown, that what we claim is in our bond, and until the gentleman can rail off the seal, our claim must be allowed, though it should extend to the penalty of a pound of flesh. Yes, sir, we claim, and we will have the penalty of the bond—the pound of flesh, not in the Shylock spirit to destroy; we will take it upon the conditions prescribed by the learned doctor in the court of Venice, the gentle Portia—"Not one drop of blood shall be shed;" we will take our "just pound," neither "more nor less, by one poor scruple;" the balance in which our rights are weighed shall stand precisely even; neither scale shall descend below the other "the ninth part of a hair." Respect for the Senator from New Jersey will not permit me to charge him with any premeditated obliquity of vision; but certainly, when it is recollected that all the treaties I have presented to the Senate were examined and quoted by him, it is strange by what fatality it was, that his eye did not for a moment rest upon either of the pregnant provisions to which I have endeavored to direct his attention. There they stand, conclusive refutations of all his arguments founded upon other provisions of the same or subsequent instruments, unless he is able to prove that they have been formally altered by the parties to them.

Sir, said Mr. F., having shown, if not to the satisfaction of the Senator from New Jersey, I trust to that of the Senate, that upon the principles assumed by the adversaries of the bill, Georgia stands justified in her course; I shall proceed to submit a few observations on the subject of the disposition which ought to be made of the Indians within the United States. The preliminary inquiry was not merely with a view to relieve the mind of the Senator from New Jersey from painful apprehensions, but to show to the Senate that our opinions on the great subject of the aborigines were not formed to suit our interests, nor at all influenced by

APRIL, 1880.]

*Funeral Honors to General Smyth.*

[SENATE.]

them; that there was no motive operating upon our minds to tempt us into erroneous judgments. The condition of the remnants of the once formidable tribes of Indians is known to be deplorable: all admit that there is something due to the remaining individuals of the race; all desire to grant more than is justly due for their preservation and civilization. Recently great efforts have been made to excite the public mind into a state of unreasonable and jealous apprehension in their behalf. The evidences of these efforts are before us in petitions that have been pouring in from different parts of the country. The clergy, the laity, the lawyers, and the ladies, have been dragged into the service and united to press upon us. But these efforts have been unavailing: the people are too well informed to be deluded; they have too much confidence in the justice and wisdom of the administration to be misled by persons who have united, at this eleventh hour, in opposition to a project which has been steadily kept in view by three administrations. To show what has been attempted, I pray the Senate to attend to an extract of a letter received from a most respectable and intelligent gentleman in one of the New England States. [Here Mr. F. read the extract which follows:]

"An attempt is making in the Eastern States to create a great deal of sympathy for this people; and the attempt is making, so far as I can discover, by what is termed the 'Christian party in politics.' Petitions to Congress have been got up, printed and circulated through the New England States for signatures, without any post mark to indicate their starting point; they have been forwarded to every town; addressed to 'Congregational clergymen of — or either of his deacons,' with instructions to have them filled with as many signatures as can be obtained, and then forwarded to Congress with as little delay as possible. These petitions supplicate Congress to protect the Indians in the occupancy and enjoyment of the lands where they reside, and the civil regulations they may adopt for their own government. Many of these petitions probably have reached Congress before this time."

Considering the means employed, it is surprising, not that we have petitions before us, but that we have so few, and to the Southern section of the Union it is a consolation to know that these efforts to prejudice the question of their rights should have, in many instances, produced a fair investigation of them, and the expressions of popular opinion in their behalf, the more precious since they were spontaneous, the offspring of honest conviction, and not of political arrangement. That many respectable persons have been deceived, is not disputed. They have been the unresisting instruments of the artful and designing, and ministered to political malignity, while they believed themselves laboring in the cause of justice and humanity.

Two evidences of such delusions are before me. A circular printed for the signature of the ladies, and forwarded to me with a note, "read

with a view to eternity," as if I were in danger of eternal punishment if I did not abandon the defence of the position taken by Georgia, on which I have already perilled my reputation as a politician, and stand responsible as an accountable being. The other, sir, is, to judge by its contents, the work of an amiable Revolutionary soldier, (Alpheus Camden, of Long Island, he signs himself) who expresses the deepest conviction of the propriety of his opinions, and urges me, as I dread the horrors of an Indian and a servile war, to retrace my own steps, and correct the opinions of the State. These delusions will pass away; this venerable man, like all others who have been misled, will soon know that they misunderstood both our principles and our purposes, and have formed on this subject crude judgments without the knowledge of the facts necessary to a correct decision; and without due reflection upon the past or the future.

MONDAY, April 19.

*Funeral Honors to Gen. Smyth.*

After the sitting was opened:—

A message having been received from the House of Representatives, by their clerk, announcing the demise of the honorable ALEXANDER SMYTH, one of the Representatives in Congress from the State of Virginia:—

Mr. TYLER, of Virginia, rose and addressed the Senate as follows:

The death of ALEXANDER SMYTH, just announced to us, leaves a considerable void in society. For the long period of probably forty years, he has been engaged in public life. His services in the Virginia Legislature will long be remembered, while his career in the House of Representatives will best attest his character. Possessing fine talents, with a mind logical and precise, his manners were retiring and unobtrusive. If he did not possess the *suaviter in modo*, he undeniably possessed the *fortiter in re*. His speeches, delivered in the various stations which he has filled, will survive as the best monument of his virtue, industry, and his intellectual firmness and strength. With high claims to public preferment, he preferred to rest for his support upon the people of the district in the service of which he has died, and that people have over and over again awarded to him the highest meed of their approbation, and know best how to estimate his services. As a mark of respect to his memory, I move the following resolution:

*Resolved*, That the Senate will attend the funeral of the honorable ALEXANDER SMYTH, late a member of the House of Representatives from the State of Virginia, this day, at twelve o'clock; and, as a testimony of respect for the memory of the deceased, they will go into mourning, and wear crape round the left arm for thirty days.

The resolution was unanimously agreed to; and then,

On motion of Mr. TAZEWELL, of Virginia, the Senate adjourned.

TUESDAY, April 20.

*Massachusetts' Claim.*

The bill to authorize the payment of the claim of the State of Massachusetts, for militia services during the late war, having been taken up—

Mr. BENTON, as Chairman of the Military Committee, by which the bill had been reported, rose to explain it. He said the claim was founded on militia services rendered during the late war, and had been thirteen years before the Federal Government for payment. It had been in a continued state of examination, either by Executive officers or by Committees of Congress during all that time; and the results of these examinations had been uniformly the same, namely, that a part of the claims rest on the same principles on which claims from other States rested which have been paid, and of course ought to be paid also. The brief history of these examinations and results, is this: these claims were first presented at the War Office in 1817, and filed for examination. In 1822, the delegations in Congress from Massachusetts and Maine presented a memorial to the President, asking an examination and settlement of them. In 1823, the third auditor of the Treasury was directed to audit them, and to proceed on the same principles which had governed the settlement of like claims from other States. In 1824, the President, (Mr. MONROE,) having carefully examined the proceedings of the auditor, brought the claims before Congress in a special message, and recommended that provision should be made for their payment, to the extent that like claims had been paid from other States. This message went to the Military Committee of the House of Representatives, which reported favorably; but as their report did not ripen into a law, the subject was referred again to the same committee in 1826, and a favorable report again made. That payment of the claims, to a certain extent, ought to be made, seemed then to be agreed on all hands; but the accounts were numerous, complex, and depending upon variety of testimony, as well as on different principles. A body so numerous as the House of Representatives, found it difficult to examine particulars and liquidate a long account; and they did what every public body ought to do under the like circumstances: they referred it to the accounting officers to make the examination, and report the amount which ought to be paid. The reference was to the War Department, and the third auditor was charged with the business. He occupied himself about it for nearly eighteen months, a period of time which I mention particularly, to show the degree of care which a most careful officer bestowed upon the examination, and reported in favor of about one-half of the amount

of these claims. The entire claim was for eight hundred and forty-three thousand six hundred and one dollars and thirty-four cents; the report is for four hundred and thirty thousand seven hundred and forty-eight dollars and twenty-six cents. To the amount thus allowed, the bill now before the Senate is limited. It proposes to pay what the third auditor has found to be due under the reference made to him. I consider this bill in the light of an appropriation, to meet a liquidated demand. The third auditor is the officer of the Government; he has adjusted the account under the instructions of the House of Representatives; and the payment, unless his settlement can be impeached, would seem to follow as a matter of course. I have seen no reason to impeach his settlement. The committee to whom it was referred saw none. References to the opinions of a committee may not be strictly regular; but, in this case, it may be allowable, and I can say that our opinion was unanimous in reporting this bill. Prejudices have prevailed against these claims. I have felt these prejudices. I have seen the time when I never expected to vote for their payment. These prejudices continued until it became my duty to examine them; and that examination has resulted with me, as with all others who made it, in the conviction that a large part of them ought to be paid.

Mr. SILSBEE said, that after the satisfactory explanation of this case, which had been given by the Senator from Missouri, who presides over the committee which had just investigated it, he should be much more brief in his remarks upon it than he might otherwise have been. But as the bill was introduced by me, (said Mr. S.,) in the discharge of what I conceived to be my duty to the State which I have the honor in part to represent in this body, it may be expected of me, in pursuance of that duty, to say a few words in its support.

This Massachusetts' claim (said Mr. S.) is a claim not only of one, but of two sovereign States of the Union—Massachusetts and Maine; for military expenditures by the people of those States, (then forming but one State,) for the defence of the State against a foreign and common enemy. This claim has been over thirteen years under the scrutiny of the different branches of this Government. In February, 1817, it was presented for payment to the Executive branch of the Government; and at the succeeding session of Congress of 1817-'18, it was presented to the consideration of the House of Representatives, and it has been before that branch of the Legislature, or the Executive branch of the Government, or travelling by the side of Presidential messages, or Congressional resolutions, from one to the other, from that time to this, receiving favorable reports from each, and from all, but no payment yet from either. Under these circumstances, and aware of the just complaints of the Government and people of Massachusetts of such delay, I considered it to be my

APRIL, 1880.]

*Massachusetts' Claim.*

[SENATE.]

duty, after consultation with the other Representatives of that State in Congress, to present this claim, for the first time, to the consideration of the Senate, where, it was hoped, a prompt and just decision would be obtained upon it.

This claim has been presented and urged for payment, as a fair and just one, not only by the administration of Massachusetts under which it originated, but by every succeeding administration of that State, from that time to the present moment; in the course of which time we have had four different Chief Magistrates in Massachusetts, all of whom were perfectly acquainted with the whole history of this claim; and two of them (the late Governor Eustis and the present Governor Lincoln) ardent supporters of the late war and of the measures of the General Government connected with it. We have also had, in the course of this time, sixteen different Legislatures in Massachusetts, coming annually from the people, and possessing their views upon the subject; and every one of these Legislatures have, I believe, united with the different Executives of the State in support of this claim.

Although ready and willing, sir, to go into a full investigation of this claim, I shall avoid trespassing so far upon the time of the Senate as would be requisite for that purpose, unless it becomes necessary, for the present, at least, to a few remarks in relation to it. Although the enemy was on our coast, capturing our shipping and other property, and occasionally committing depredations upon some of our most exposed towns, in the course of the years 1812 and 1813, yet it was not until 1814, and after the peace in Europe, that we became seriously apprehensive of invasion. And the expenditures embraced by this claim, with the exception of two or three thousand dollars, accrued after April, 1814, and the bill now under consideration embraces only such parts of the claim as, after the most rigid and prolonged scrutiny, by every branch of the Government, have been found to come within the rules and principles which have been observed in the settlement of similar claims of other States—not what has been asked by the creditor, but what the debtor admits to be due. Sir, but for these expenditures, the State of Massachusetts must, and would have been invaded, and much of its property captured or destroyed; for, as is shown by one of your own officers then in command there, there were not a sufficient number of United States troops within the State of Massachusetts, if they had all been drawn to one point, to man the guns of one of its fortifications; and, sir, here let me add, that by a portion of these expenditures, the property of the United States was prevented falling into the hands of the enemy. Yes, sir, your navy yards at Charlestown and Portsmouth, and the public ships, then lying at them, were defended, and successfully defended, by the militia of Massachusetts, as can be shown by the corre-

spondence of your own officers. [Here Mr. SILSBEE read extracts of letters from General Dearborn, from Commodore Bainbridge, from the Adjutant General of Massachusetts, and from the then Secretary of the Navy.]

Sir, (continued Mr. S.,) during the whole Summer of 1814, the whole seacoast of Massachusetts was kept in a constant state of alarm, so much so, that but little else was thought of by any one but the defence of his person, his property, and his country: the enemy was not only on our coast, but often in our harbors; invasion and the destruction of property were daily and nightly apprehended, during the whole season; to prevent which, guards were established on the whole extent of the coast; many of the militia constantly on duty, not only the militia of the seaboard, but that of the interior, were often marched to the coast and kept on duty, for the protection of the public, as well as private property, which was there located, and the whole militia of the State under orders to march at the shortest notice. A large portion of these services were rendered on sudden and pressing occasions, to meet "invasion or well-founded apprehensions of invasion," and are such as come clearly within the class of claims which has been allowed and paid to other States. Sir, no one who has examined the documents appertaining to this claim, can, I think, have failed to be convinced, that during the summer of 1814, the State of Massachusetts was in constant and imminent danger of invasion, and without any other means of defence than its own militia, acting, some under United States officers, some under their own officers, and all acting in concert and upon plans of operation, mutually agreed upon by the officers of the United States, (both military and naval,) and the officers of the State. By this union of council and operation, the State was protected from invasion by the people of the State, at their own expense, and at less expense than it could otherwise have been done, for which they ask such remuneration, and only such, as has been made for the like services, rendered by their fellow-citizens of other States; they expect no less, they ask no more; but, sir, they have been asking for this a long time.

[Mr. SILSBEE here gave a statement of the proceedings upon this claim, by the executive and legislative branches of the General Government, from its first presentation in February, 1817, to the present time, and read extracts from the reports of the different committees of the House of Representatives, to which it had been referred in 1818, in 1824, and in 1826; also from the special messages of the late President Monroe, of 1823, 1824, and 1825, and from the resolution of the House of Representatives of December, 1826, under the authority of which the report of the Third Auditor was made, upon which the bill before the Senate was founded.]

It is shown by these documents, (said Mr. S.,)

which have been furnished by the Government of the United States, in relation to this claim, that the late President Monroe, (than whom no one knew more of its history, and who had no reason to entertain predilections for it,) in three special messages to Congress, recommended its settlement and payment, according to the rules by which similar claims of other States had been adjusted and paid. And every Committee of Congress to whom it has been referred, (and it has now been under the consideration of four different committees,) have been led to the same conclusion, and have reported that it ought to be paid to that extent. The amount specified in the bill now under consideration, is that which has been found to be due, by an investigation of the most scrutinizing officer of this Government, under a resolution of the House of Representatives, founded upon the recommendations and reports just mentioned. And it is now before the Senate with these high testimonials in its support. Such testimonials, emanating from such sources of information in relation to this claim, seem to be sufficient to show that it needs only to be examined, to be approved by all, of which, if any doubt remained, that doubt must be considered as entirely removed by the frank and honorable avowal of the chairman of the committee; that the examination which he has been called to make of it, has removed the unfavorable impressions which he had previously entertained towards it, so far, at least, as to satisfy him of the justice of passing this bill. Deeming it needless at present to trouble the Senate with a more detailed representation of this claim, I shall forbear doing so, unless it should hereafter become necessary. I shall, however, willingly meet any questions that may be proposed, and afford any and every information I possess in relation to it, which may be asked.

Mr. HOLMES made also a few remarks in explanation and support of the claim; after which

The question was put, and the bill ordered to a third reading without a division.

#### *Removal of the Indians.*

The consideration of the bill to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the river Mississippi, was resumed.

Mr. ADAMS said he was sure that all must feel embarrassment in addressing, for the first time, the Senate of the United States; and, especially, on a subject of so much importance as that now under consideration. But mine (said he) is greatly increased from never before having been a member of a legislative assembly. But I feel great encouragement, from a knowledge that this circumstance will increase towards me the generous indulgence and courtesy for which this body is so distinguished; and I feel that it will be owing to that indulgence that I will be able to lay before the Senate the

few imperfect observations which occur to me on the subject before us.

The question, which is submitted to us by the bill itself, as reported to the Senate by the Chairman of the Committee on Indian Affairs, is this: whether Congress will authorize the President of the United States to exchange territory belonging to the United States west of the river Mississippi, and not within the limits of any State or organized Territory, with any tribe of Indians, or the individuals of such tribe, now residing within the limits of any State or Territory, and with whom the United States have any existing treaties, who may voluntarily choose to make such exchange for the lands which such tribe of Indians, or the individuals of such tribe, at present occupy; to compensate individuals of those tribes for improvements made upon the lands they now occupy; to pay the expenses of their removal and settlement in the country west of the Mississippi, and provide them necessary subsistence for one year thereafter.

The authority contemplated by the bill is, to make the exchange of territory with those Indians, and with those only who are willing to make it. The friends of this measure do not wish to vest power in the President of the United States to assign a district of country west of the Mississippi, and, by strong arm, to drive these unfortunate people from their present abode, and compel them to take up their residence in the country assigned to them. On the contrary, it is their wish that this exchange should be left to the free and voluntary choice of the Indians themselves.

Is there any thing alarming in this proposition? any thing to cause that fear and trembling for the fate of the unfortunate Indian, which have been manifested in the opposition to this bill? Is there any thing to call forth those animated denunciations against those who disregard and violate the faith of treaties? As if those who support this measure were ready to prostrate at the foot of their own sordid interest the honor of the nation, and inflict a stain upon her escutcheon that all the waters of the Mississippi could not wash out. I confess, for my own part, I can see nothing in the provisions of the bill before us unbecoming the character of a great, just, and magnanimous nation. And, indeed, if I had heard only so much of the eloquent speeches of those who oppose the passage of the bill as enjoined upon us the strictest good faith in the observance of treaties, I would have concluded that they were the warmest advocates of the proposed measure.

As early as the year 1802, the United States entered into a compact with the State of Georgia, which compact was ratified in the most solemn manner, being approved by the Congress of the United States and by the Legislature of the State of Georgia. By this agreement, the United States obtained from the State of Georgia a cession of territory, suffi-

April, 1830.]

*Removal of the Indians.*

[SENATE.]

cient, in extent, to form two large States, and in part consideration for such an immense acquisition of territory, agreed, on their part, in the most solemn manner, to extinguish, for the use of Georgia, the Indian title to all the lands situated within the limits of that State, "as soon as the same could be done peaceably and upon reasonable terms." Although this is not, in the technical sense of the term, a treaty entered into by the United States with the State of Georgia, yet it is an agreement upon a full and valuable consideration; and good faith on the part of the United States requires its fulfillment, according to its true spirit and intent. The bill under consideration proposes a mode by which this agreement may be performed; by which the Indian title to all the lands within the boundaries of that State may be extinguished, peaceably, and upon reasonable terms. Peaceably, because it is only to operate upon those Indians who are willing to remove. And upon reasonable terms, because they are to receive other lands in exchange for those which they give up; just compensation for improvements made by them; the expense of their removal and settlement paid, and subsistence for one year furnished them. Would it not, therefore, have been reasonable to suppose, that those who have said so much about the high and sacred obligation of treaties, and how essentially the great name of every nation depends upon their strict observance, would be amongst the warmest and warmest supporters of the bill under consideration? And certainly it was matter of astonishment to me to find that all their mighty efforts had another aim. And, as an excuse for that, we are told, that although this bill appears harmless on the face of it; that although all its exterior seems well ordered, and no objection can be urged against it in the abstract, yet there are facts and circumstances so connected with it as to make it in the highest degree objectionable, and to justify the unsparing animadversions which have been bestowed upon it.

The following portion of the Message of the President of the United States to the present Congress, has been read, and urged as one of the causes of alarm.

[Here Mr. A. read several paragraphs from the Message to which he had alluded.]

The principle insisted on in this part of the Message, denying to the Indian tribes within the limits of the States the rights of separate government; recommending to them to remove beyond the Mississippi, and declaring to them, distinctly, that, if they remain within the limits of the States, they must submit to the laws of the States within whose limits they reside, is contrary to the provisions of the treaties made by the United States with several of those tribes, and now existing in full force—particularly with the Creeks, Choctaws, Chickasaws, and Cherokees; that the acts of the Legislatures of Georgia, Alabama, and Mississippi, extending the laws of those several States

over the Indians residing within their respective limits, are also in violation of those treaties; that they are calculated to compel the emigration of those tribes; and, to counteract and defeat the operation of the opinion expressed by the President of the United States, and this improper legislation, as it is called, of those States, an amendment has been offered. The amendment is in these words: "Provided, always, that, until the said tribes or nations shall choose to remove, as by this act is contemplated, they shall be protected in their present possessions, and in the enjoyment of all their rights of territory and government, as heretofore exercised and enjoyed, from all interruption and encroachments."

This is, perhaps, the first attempt, by an act of Congress, to operate directly on the legislation of the States, which has been made since the institution of this Government, and it is to be hoped, it will be the last. The avowed intention is, to interpose the power of the Federal Government to prevent the action of the laws of the States in question, within their own acknowledged boundaries, and to exempt from the influence of those laws a portion of the population. It has sometimes happened to States that acts of their Legislatures have been declared unconstitutional by the Supreme Court of the United States, and, consequently, inoperative and void in the particular case in question. The Supreme Court, however, act on a single statute at a time; but, in the mode proposed by the amendment in question, Congress may sweep off whole codes in a moment by a single clause. It is plain, then, if the bill pass with this amendment, that the laws of the States and of the Federal Government must come into collision. The bill speaks of tribes residing within any State or Territory, and with whom the United States have existing treaties. Treaties exist between the United States and Indians residing within the States of New York, Georgia, Alabama, and Mississippi, and the Legislatures of all these States have extended all, or a part of their laws over those Indian tribes respectively. The collision which will arise between the laws of the Federal Government and of the States will extend to four of the States of the Union. And if the federal law be constitutional, the President of the United States will be bound by his oath of office to see that it shall be faithfully executed. And gentlemen have told us that, if milder means will not answer the purpose, the strong arm of the Government must be employed; by which I understand that a military force must be arrayed against the contumacious States, to bring them into subjection, and to compel them to acknowledge the right of the Indian tribes to live under their own usages, government, and law.

Let us see what will be the practical operation of this Indian protective system. According to the usages and laws of the nations of Indians residing within the State of New York,



witchcraft is declared to be a crime, and capital punishment is to be inflicted upon those who are found guilty. But, by the laws of the State of New York, extended over those tribes, the infliction of such punishment by any one of the tribe, for such supposed offence, is declared to be murder, and the offender is liable to be convicted, and to suffer the penalty of the law in such cases. Here is a conflict of laws, and under the proviso in question, the Indian tribe, upon complaint made to the Executive of the United States, to see that they should be protected in the enjoyment of their own government, usages, and laws, and upon the refusal of the State of New York to yield to the persuasion of the President of the United States, and to surrender all claim to govern the people within her limits—the strong arm of this Government—its military force must be interposed to protect the Indian tribes, and to see that they enjoy the usage of punishing their own witches in their own way.

By a law of the Cherokee republic, a plurality of wives is authorized: but, by the laws of Georgia and Alabama, this is regarded as a crime, and those who are guilty are liable to severe punishment. But, by the guarantee contemplated in this proviso, if the laws of Georgia or Alabama were to interpose between the privileged Cherokee, and the enjoyment of his fifty wives, all that would be necessary to ensure that enjoyment, would be to call on the Executive Department of this Government, point to the guarantee, claim its execution, and, if nothing else will do, the claims of Georgia and Alabama must be silenced by the military force of the nation.

By a usage of the Choctaws, homicide is punishable with death in all cases, with a single exception, which exception is when one man kills another in a ball play. But, by the laws of Mississippi, it is excusable when done in self-defence, and to save the life of the person attacked. But if the laws of that State were to interfere to prevent the life of an innocent man from falling a sacrifice to this absurd and barbarous usage, the laws of the Union would be violated, and the State must submit to chastisement for an act of humanity.

But the argument on the other side shows this proviso to be unnecessary. For, it is insisted that, by virtue of treaties now existing, the separate existence as nations, of the several Indian tribes within the limits of those States, is acknowledged, and that, in their character of nations, the United States have promised them protection; and that, by virtue of the obligation of treaties, this protection ought to be extended to them. If such treaties exist, and they are the supreme law of the land, then no additional supremacy can be conferred by the proviso, and no additional obligation can be imposed on the Executive Department of the Government, to do that which is already enjoined by treaties. The argument, therefore, shows all farther legislation to be unnecessary.

The Cherokee tribe of Indians having erected an independent Government within the limits of the States of Georgia and Alabama, and those two States claiming the rights of exclusive sovereignty within their respective limits, extended their laws over those Indians. Under these circumstances, an appeal was made to the Executive of the United States by those Indians, claiming to be protected in the enjoyment of the Government which they had established for themselves. The question was then submitted for the decision of the President of the United States, and, under the oath which he had taken to support the constitution, he determined that no such Government could be erected without the consent of the States within which it was formed. The question is, therefore, decided as to them. If it was unconstitutional, under the state of things which then existed, it would continue to be unconstitutional under the proposed amendment; and it would never do for Congress to reconsider a question of constitutional law, decided by either of the other distinct and independent departments of the Government, upon a question properly submitted to such departments, and reverse that decision. If they can do so in regard to the Executive, why not in regard to the Judiciary? For both the Executive and Judiciary derive the power of decision from the same source, not because it is expressly said in the constitution, that the Judiciary or the Executive shall disregard a law not made in conformity to that instrument, but because each is required to take an oath to support the constitution as the paramount law; and when any statute or any treaty is made or passed contrary to its provisions, each of those departments before which the question may arise, is bound to declare it a nullity. The Executive has, then, upon the matter fairly submitted to it, decided the constitutional question, as to the Government erected by the tribe of Cherokees, and no law which we can pass can possibly change the principle of that decision. It rests upon the authority of the constitution itself.

But it seems that, for the sake of doing justice to Indian rights, all things are to be resolved into their original elements, and we are called upon to decide the subject before us according to the principles of abstract justice.

The vast country which now forms the United States, with the exception of Louisiana, was, at one time, subject to the jurisdiction and sovereign dominion of Great Britain. She claimed it by right of discovery and conquest, and, added to this, the superior claims of an agricultural over a savage and barbarous people. This title has always heretofore been considered sufficient by the jurist and the statesman, and no inquiry beyond it has been thought necessary, or even tolerable; and it has been left to the sympathies—the mistaken sympathies, as I must call them—of the present day, to call up this title of the savage from its sleep of ages, and urge it on this floor and else-

APRIL, 1830.]

*The Patent Office.*

[SENATE.]

where, as prior and paramount to that of civilized nations.

If gentlemen are really in earnest in the opinions which they have expressed; if the remonstrants who have loaded your table with their petitions, are really in earnest; if the pamphleteers who have inundated the country with abuse upon the present administration, and poured out the phials of their unsparing wrath upon Georgia, are really in earnest; if they really believe that civilized man has lawlessly usurped the territory and dominion of the barbarian, then let them show their sincerity and consistency by asking for this much-injured and almost exterminated race, that ample measure of justice which the magnanimity of their professions purport; let them not only ask, but do justice; call them back from the deep wilderness to which they have been driven; restore to them this fair and happy land, from which they have been cruelly expelled; give them up your fields, houses, cities, temples of justice, and halls of legislation. All I have to ask is, that those whose sense of justice is with them a principle so prevailing, shall begin this retrograde to barbarism at home; that they shall first surrender that which more immediately concerns themselves, and over which they would seem to have a more direct control, and then call upon us to follow an example so worthy. But I think it is not difficult to foresee that this work of restoration would not proceed far before the pretended philanthropist would quarrel with his own rule of abstract justice, and content himself with permitting things to remain as they are.

THURSDAY, April 22.

*The Patent Office.*

On motion of Mr. HAYNE, the bill providing for the further regulation of the Patent Office was taken up for consideration, together with an amendment proposing to admit foreigners to the privilege of patenting inventions in this country, and increase the fees both to foreigners and on our citizens.

Mr. H. explained its object, and the circumstances which induced them to adopt the amendment. It appeared that a number of petitions from foreigners had been regularly before the Committee on the Judiciary, for special laws to enable them to exercise their inventions in this country; and were productive of great expense to the nation, as well as to the individual applicant. In consequence of this inconvenience both to the patentee and the country, the committee had come to the conclusion to admit the subjects or citizens of all other States, Empires, and Kingdoms to take out patents in this country, subject to the laws of their respective countries, by paying two hundred dollars into our Treasury, instead of seventy-five dollars, the amount of the sum claimed by the provisions of this bill from our own citizens.

Mr. DICKERSON said he had doubts about the

propriety of adopting the amendment proposed to the bill, or even the first section of the bill itself. He was of opinion that the sum required by the present law for the privilege of taking out a patent was quite sufficient. He believed it was now placed at thirty dollars; and, if he was called upon for an opinion on this subject, he would reduce instead of increasing the fees. He thought it was the duty of Congress, as it was the interest of the country, to promote, and not to discourage, the inventive genius of those who devote their talents, ingenuity, and time, in prosecuting discoveries in the useful arts, for the benefit of the country. It was well known (said Mr. D.) that many of those who applied for patents had exhausted all their little means in perfecting their discoveries and rendering them serviceable to the country; and if difficulties were thrown in the way of taking out patents, their inventions could not be tested, and their utility lost both to the inventor and the country. He was opposed to that feature in the amendment which proposed to raise the fees on foreign patentees to two hundred dollars; because if it be admitted that the patents are of importance to the country, as he believed all would admit, then he thought that all should be placed on the same footing.

Mr. HAYNE said, at an early period of the session, a communication was received by the committee from the Secretary of State, covering a report from the Superintendent of the Patent Office, recommending what ought to be done for the better regulation of the institution; and stating, among other things, that great inconvenience had resulted from the low sum for which patents can be obtained, in consequence of which the office was crowded with a number of useless inventions, of no earthly use to the patentees or the public. The committee, after the examination of the subject, with such lights as were presented to them, thought it would be better by raising the price of patents, to restrict the issuing of them in such numbers, rather than throw open the doors so widely as hitherto, for the admission into the office of useless lumber, by which the business of the office was increased, and the community at large, in a great many instances, imposed on. In raising the price of a patent from thirty dollars to seventy dollars, the committee were of opinion that no useful invention would be prevented from being known; though he thought there could be no doubt that the increase of price would have a salutary effect in preventing applications from ignorant or unworthy persons. With regard to that branch of the amendment which permitted the issuing of patents to foreigners, in certain cases, he would observe that the committee had been subjected to much trouble for several years past, in consequence of applications from that class of persons who could not obtain patents under the existing laws. He thought it much better to establish a general principle by law, for granting patents to foreigners, than to legislate, as heretofore,

for each individual case, after subjecting the committee to the labors of an investigation and report. To the gentleman from New Jersey, he would reply that there could be no difficulty in the way of the superintendent's ascertaining the laws of other countries in relation to patents, so as to grant them to citizens of countries which did not exclude ours from like privileges; the usages of foreign countries under their patent laws were not necessary. A difference ought to be made between our own citizens and foreigners; and the committee, in establishing the difference, had turned their eyes towards England and France, and had ascertained that the fees paid in those countries were higher than any proposed to be fixed by the bill.

Mr. HOLMES observed, that it seemed to him, the two additional clerks called for in the bill, for the performance of the supposed increased duties of the Patent Office, were rather unnecessary, when viewed in connection with the other amendments proposed by the committee on the Judiciary. By these amendments, it was proposed to increase the fees for obtaining patents; and the reasons assigned for this increase of fees, were to exclude the immense number of useless inventions which were daily presented at the Patent Office. It appeared to him (Mr. H.) that, if the reasoning of the committee were correct, a diminution of clerical duties in the office must follow as an inevitable consequence. He thought we got along very well under our present law, and was inclined to believe that the amendments would, instead of removing evils, be productive of many. The increasing of fee, he did not believe, would sift out the useful from the useless inventions. They depended upon experiment, and the valuable are as liable to be excluded as the worthless. He would mention the invention of the cotton gin, the nail-casting machine, and propelling boats by steam, any one of which was of more advantage to the nation than would counterbalance all the evils intended to be removed by the amendments; yet all might have been lost to the country under these amendments. With respect to the clause relating to foreigners, he thought it in some measure a proper one. The committee had to encounter a great deal of labor in presenting their petitions, examining their claims, and their bills, and vast expense was incurred by the country; but (as we understood him) the fees exacted from them were too high. He thought that, instead of two hundred dollars, the fee might safely be reduced to one hundred dollars.

Mr. McKINLEY said, that great unanimity had prevailed in the committee with regard to the amount of the fees to be charged for patents. On that subject there had been no difficulty. The great difficulty had been so to frame the law as to prevent the issuing of patents for useless inventions. It had been at length settled that the increasing of the fees would have the effect of lessening the number

of patents. The committee had had another object in view; and this was to increase the responsibility of the officers charged with the management of the business; for it had been found that many patents had issued where the fees had not been accounted for; and it was to provide against this that the first section had been framed. Mr. McK. thought there was no danger of any useful inventions being excluded from the public notice in consequence of the increase of fees to seventy dollars; that sum was too small to prevent any one from taking out a patent for any invention of sufficient importance to promise him any remuneration for his skill and labor. With regard to the proposed charge of two hundred dollars for a patent to a foreigner, he thought with the gentleman from South Carolina, that some distinction ought to be made between citizens and strangers, and that settling some definite principle on which they might be admitted to the privileges of our Patent Office, would be preferable to leaving their cases to separate legislation.

Mr. ROWAN thought the honorable gentleman from New Jersey (Mr. DICKERSON) had not given the subject that reflection to which its importance entitled it. He was of opinion that seventy-five dollars, the sum to which the fees were proposed to be increased, would not prevent the inventors of what are really useful from obtaining a patent; because they will always be able to purchase a patent if the invention be valuable. But the people of this country had been frequently imposed on by their Eastern brethren, who travel over the country with their patented notions, which they sell to the honest and unsuspecting farmers. When they had not money, the patentees would dispose of their notions for notes or obligations; but, before the note or obligation becomes due, the imposition is found out—payment is refused—suit is entered, and the industrious farmer is dragged at a great expense and inconvenience from his business to the Federal court. He had seen many such cases himself. He mentioned a patent for distilling by steam, and another for a "bulkhead," that were old and utterly useless, though they were sold, and the purchaser brought a great distance to the Federal court to defend himself against the imposition. He did not suppose that the great discoverers of the cotton gin, the steamboat, &c., could have been lost from the fee being raised to seventy-five dollars. But when the fee is only twenty or thirty dollars, every trifling notion is patented, to the injury of the people, and the patentee not frequently. He did not think that our countrymen required much legal encouragement to stimulate the spirit of improvement. Let any one go into the Patent Office, and he will find that the spirit is not very sluggish. It was prudent, to be sure, not to damp it by imposing an enormous tax. As it related to the tax on foreign patentees, the committee were influenced in placing it at two hundred dollars from having understood that

APRIL, 1880.]

*The Patent Office.*

[SENATE.]

that fee was smaller than what is required by the laws of foreign nations. In reply to the idea advanced by the Senator from Maine (Mr. HOLMES) that the increase of fees would decrease the duty of the office, and consequently so far remove the necessity for clerks, Mr. R. reminded the gentleman from Maine, that if his reasoning were correct, still the duties of the office have more than doubled, and hence the necessity for the additional clerks provided for by the bill. He had understood that the revenue derived from the office would support these clerks, and still leave a surplus to go into the Treasury. Unless as a general measure, Mr. R. had no particular concern for this office; but as it was necessary and important to the country, he thought that the arrangement and provisions of the bill would have a salutary tendency.

Mr. DICKERSON observed, it was true, as stated by the gentleman from Kentucky, that he was not much acquainted with the subject. He did not before know that a bill of that nature had been before the Senate. His opinion still was, and he thought that a little reflection would bring the gentleman from Kentucky to the same conclusion, that there was no necessity of increasing the fees for patents. Any increase of fees could only be made for one or two objects—for purposes of revenue, or for the sake of diminishing the number of patents. Now, although he was perfectly willing to increase the number of clerks in the Patent Office, he never wished to see any revenue derived from it; and as to the idea of diminishing the issue of patents, he could not see how the increasing of the fees could possibly have that effect. Those who gave their time to the invention and improvement of machinery, could, either through the instrumentality of friends, or on the credit of a useful invention, raise money enough to pay for the patent; and those whose inventions were not useful, would be most apt, through want of skill, to set a high value on them; and procure, by some means or other, the price of a patent. But the gentleman from Kentucky talked of the number of Eastern notions, by means of which the people of his State had been defrauded. Now Mr. D. would only observe, that notions were not peculiar to the people of the East—they were to be found everywhere—as well in the North, South, and West, as in the East; and those who did not like Eastern notions, might turn the tables on them. Mr. D. would have no objection to any reasonable plan for diminishing the number of patents issuing from the Patent Office, for he believed as much folly was collected there as ever was collected together in any one place in the world; but he did not believe that any increase of fees would remedy the evil; it would only have the effect of laying a tax on genius, without producing any good. With regard to that part of the bill which charges two hundred dollars for the patent to foreigners, he was opposed to it, and

moved to strike out "two hundred," and insert fifty dollars.

Mr. FORSYTH said that he thought the provision respecting foreigners a very fair one—it was one of perfect reciprocity. He would suggest one idea to the chairman of the committee that presented the amendment relating to the admission of foreigners to the benefits of the patent law—it is this: when patents are granted under the existing laws, the patentees have the exclusive right to dispose of their rights, and, when they are sold, it is in our own country; but the privilege to foreigners, by the provisions of the bill, are such, that if they do not choose to sell in this country, we are deprived of the advantage of using them for fourteen years, while their own country may be enjoying the use of them. All know the jealousy that exists in other countries in relation to this subject, and the fear that we should become acquainted with the principles of their inventions.

Mr. HAYNE observed, that, as far as the committee had been able to ascertain, the regulations, or nearly similar, which prevailed here in relation to patent laws, prevailed in Europe. There was no possibility of regulating, by law, the sale of patented inventions; but he believed if any foreigner took out a patent and refused to sell, he would incur a forfeiture. A provision might be inserted in the bill, that the foreign patentee must sell; but he must also be allowed to fix his price. That difficulty was inseparable from the subject. It appeared to him, (Mr. H.,) that the only security to be had, was in that strong sense of interest which would induce every man to sell out his invention speedily, for the purpose of realizing the expected profit.

Mr. CHAMBERS, in reply to the observations of the gentleman from Georgia, said, that if the citizen or subject of a foreign power were to obtain a patent in this country for an invention, in order to restrict its use to his own country, an American citizen might use it, subject to an action for damages in a court of law; and if a foreigner were to come here to obtain a patent for the purpose of prohibiting for using it, he was of opinion that a court of justice would not award much damages for a violation of the law, when, in the country in which the patent was used, such violation did not interfere with its sale. Mr. C. was of opinion that every dollar derived from the revenue of the Patent Office should be expended for the encouragement of the useful arts; or, in other words, that there should not be a dollar drawn from the proceeds of the office, after paying its expenses, to go into the United States Treasury. He was, therefore, opposed to the increase of patent fee, proposed by the bill. With respect to the provision for admitting foreigners to the benefits of the patent law, he approved of it. He believed that, according to the present mode of passing special bills for that purpose, the cost to the Govern-

ment, in every instance, exceeded two hundred dollars, and the trouble and expense to the individual were also great and perplexing. He mentioned one case, where a gentleman had been a whole year waiting on Congress, to obtain a patent right for a useful and important invention. Yet, from the multiplicity of business before them, the bill could not be acted on; and the applicant, after having subjected himself to great expense and loss of time, was obliged to abandon his object until another session.

Mr. ROWAN observed, that, if the gentleman from New Jersey had bestowed any examination on the subject, he would, with his usual reflection, have seen the difficulties attendant upon permitting individuals to monopolize the sale of articles belonging to the common concerns of life, under the pretence of taking out a patent for them. His constituents were so simple as to believe that when any thing emanated from Washington, and having the sanction of high official authority, it established an undoubted right to the article specified. They, moreover, had such a horror of being dragged before the Federal courts, that they were too apt to give up, and suffer themselves to be defrauded, either by paying the whole, or by a compromise. Did not the gentleman see the evils resulting from individuals claiming the exclusive right to articles formed from the dictates of common sense, and of common and daily use? There was nothing that the Eastern patent venders had not taken out patents for—from washing-machines to millinery; (he did not mean the fig-leaf, but improvements in the mode of cutting female dresses;) the baking of bread, (he apprehended bread was used before the old people left the garden;) nothing had escaped them. With respect to the gentleman's arguments that the increase of fees would not diminish the number of patents, it might apply to marriages, though not to patents: for he believed those who married were not tempted into matrimony by the lowness of the fees, nor would those inclined to celibacy be kept out of it solely by any high fees that might be imposed. Let us, said Mr. R., offer sufficient encouragement to the obtaining of patents—but let us not believe that no impositions are practised, and, in consequence, refrain from imposing such restraints as will, in some degree, have the effect of preventing them.

Mr. NOBLE said, as to the marriage fees alluded to by the Senator from Kentucky, (Mr. ROWAN,) he thought they did not suit his purpose. He was astonished that there was not another clause introduced in the bill, making provision for taking out patents for reform. These were to have been the days of regeneration, but he believed they were the days of degeneration. This Secretary of State of ours wants four thousand five hundred dollars for the Patent Office—two more clerks under his patronage. Would he go in person to the Patent Office? No, sir; he would not, though I

believe him small enough to go into one of the rat-traps there. He said he would vote against the bill and amendment; instead of increasing the tax to seventy-five dollars, he would prefer reducing the present tax at least one-half. As regards the foreigners, he would act on that if it were important; but as to the four thousand five hundred dollars which were to be given for these changes, he had no idea of it.

Mr. HAYNE had only one word to say. He would have been much better satisfied if the gentleman from New Jersey (Mr. DICKERSON) had not made his motion, particularly as that gentleman had expressed himself as opposed to the admission of foreigners to the privileges of the patent law. If he were opposed to them, he ought not to facilitate the means of embracing it, which is the inevitable tendency of his amendment. He (Mr. H.) had great confidence in the inventive genius of his countrymen, and was inclined to think that we would gain more than we would lose by the provisions of the bill. The four thousand five hundred dollars which the gentleman from Indiana wished to withhold, Mr. H. said, would be necessary to keep the office in order, preserve the models, records, &c.

Mr. DICKERSON said, that gentlemen were mistaken as to his motives. He was not opposed to granting patents to foreigners, but he was opposed to granting them as a matter of right. He wished the present practice to continue, and then such restrictions could be imposed on the issuing of a patent to a foreigner as the nature of the case required.

Mr. FORSYTH was not satisfied to adopt the amendment proposed to the bill, and wished farther time for reflection on it; he therefore moved to lay it on the table till to-morrow; which was agreed to.

—  
SATURDAY, April 24.

*Removal of the Indians to the West.*

The bill to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the river Mississippi, was resumed in Committee of the Whole.

Mr. WHITE concluded his remarks in reply to the arguments of gentlemen in opposition to the bill; and

Mr. FRELINGHUYSEN made some observations in explanation of some parts of his former remarks, which he thought had been misapprehended by Mr. WHITE.

The question on Mr. F.'s amendment was divided, and first taken on adding to the bill the following proviso:

*Provided always, That until the said tribes or nations shall choose to remove, as by this act is contemplated, they shall be protected in their present possessions, and in the enjoyment of all their rights of territory and government, as heretofore exercised and enjoyed, from all interruptions and encroachments.*

April, 1830.]

*Removal of the Indians to the West.*

[SENATE.]

The proviso was rejected.

The question was then taken on the other proviso, which is as follows:

*And provided also,* That, before any removal shall take place of any of the said tribes or nations, and before any exchange or exchanges of land be made as aforesaid, the rights of any such tribes or nations in the premises, shall be stipulated for, secured, and guaranteed, by treaty or treaties, as heretofore made.

This was also rejected.

Before taking the question on the above provision,

Mr. BARTON rose and said, he voted for this amendment in Committee of the Whole, and should do so again, upon its own intrinsic merits, for it was intrinsically right or wrong, without regard to either the present administration or to the particular question in the South, in which Georgia felt a peculiar interest; yet both of these latter questions had been introduced into the debate upon this amendment.

Some of the friends of the administration, said Mr. B., object to the amendment on the ground of its being unusual, and amounting to a reflection upon the present administration. So far from that being my object, the amendment was offered by a supporter of the administration, not as a reflection on the President, but upon the discovery of an actual case of such bribery of Indian chiefs, during the last summer, to sell the lands of their tribe, and after a rejection of the stipulation for the bribe in this Senate, with a view to prohibit, by law, the use of such means in future. We do not accuse the President of having countenanced the bribery; and it would be a feather in the cap of this administration, to introduce the elevated and honorable principle of the amendment into our contracts or treaties with the miserable remnants of the once powerful owners of the country, by declaring, by a law, to govern all our public agents, President and Commissioners, that neither force, nor fraud, nor direct, secret bribery, shall be resorted to in acquiring the lands of those helpless people, whose guardians we affect to be.

I hope the mere circumstance of the last administration having taken the high ground of rejecting, with disdain, an offer to use bribes in such negotiations, will not be sufficient reason to reject the amendment. This sin cannot be visited upon any particular administration. We must be responsible as a nation for its existence; but let us not recede from the ground taken by the last administration, which emphatically repudiated the practice. And as to the exciting Georgia question, it has no proper connection with this bill or amendment. This bill is to extinguish Indian title north of the Ohio, in Indiana, and does not touch the Georgia question at all; and presents a fair opportunity of putting down, by law, without prejudice to Georgia, a practice that has been im-

properly revived under the present administration, and we presume without the sanction of the President. Disguise this question as you may, it is substantially whether we will sanction by our votes the use of secret bribes to obtain cessions of Indian lands. And I am sorry the Senator from Alabama has abandoned the amendment that would have done so much honor to the administration of which he is a supporter. This is a Government of law, and the national honor is concerned to prohibit, by law, all our agents, whether they be Presidents or subordinates, from continuing so unfair and dishonorable a practice, which we admit has crept into our negotiations. Secret bribes to chiefs, without the knowledge or consent of the poor tribes, whose guardians we affect to be, to sell us the lands of the tribe, sully the honor of the nation, and render the contract void, if the Indians had power to assert their rights.

Mr. SPRAGUE then moved to add a proviso in the following words:

*Provided always,* That until the said tribes or nations shall choose to remove, as is by this act contemplated, they shall be protected in their present possessions, and in the enjoyment of all their rights of territory and government, as promised or guaranteed to them by treaties with the United States, according to the true intent and meaning of such treaties.

The amendment was negatived.

Mr. FRELINGHUYSEN next offered the following proviso:

*Provided always,* That nothing herein contained shall be so construed as to authorize the departure from, or non-observance of, any treaty, compact, agreement, or stipulation heretofore entered into, and now subsisting, between the United States and the Cherokee Indians.

This amendment was rejected.

On motion of Mr. McKINLEY, the fourth section was amended, by adding thereto the words following:

And upon the payment of such valuation, the improvements so valued and paid for shall pass to the United States; and possession shall not afterwards be permitted to any of the same tribe.

A verbal amendment in the fourth section, proposed by Mr. SPRAGUE, having been agreed to,

Mr. SANFORD moved to add the following section:

*And be it further enacted,* That where the lands in any State are held by Indians, and such lands belong to the State, subject to the claim of the Indians, or the State or its guaranties are entitled to purchase the Indian title, the President of the United States may give and assign to any such Indians any suitable district or portions of the lands described in the first section of this act, when any such Indians shall choose to remove to, and reside on, the western lands, so as to be assigned to them.

Mr. WOODBURY moved to add thereto the following:

*Provided*, That no part of the expense of extinguishing the titles, or paying for the improvements of the lands on the removal, or of the first year's residence of the Indians, referred to in this section, shall be borne by the United States.

This was accepted by Mr. SANFORD, as a modification of his motion; and the amendment was then rejected.

On motion by Mr. FORSYTH, the second section was amended, by adding thereto the following:

When the land claimed and occupied by the Indians is owned by the United States, or the United States are bound to the State within which it lies, to extinguish the Indian claim thereto.

On motion of Mr. WHITE, the blank in the eighth section was filled with five hundred thousand dollars, and the bill reported to the Senate with the amendments; which, having been concurred in,

Mr. FRELINGHUYSEN moved further to amend the bill, by adding the following proviso; which was rejected:

*Provided*, That before any exchange or removal shall take place, the President of the United States shall nominate, and, by and with the advice and consent of the Senate, appoint, three suitable persons, and by them cause the country to which it is proposed to remove the Indians to be fully explored, and a report made to the President, and by him to Congress, of the extent of good and arable lands that can be obtained, and of the proportion of woodland in such country, and of its adaptation to the objects of this bill, and to the wants and habits of the Indian nations.

The bill was then ordered to be engrossed for a third reading, by yeas and nays, as follows:

YEAS.—Messrs. Adams, Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Iredell, Johnston, Kane, King, Livingston, McKinley, McLean, Noble, Rowan, Sanford, Smith of South Carolina, Tazewell, Troup, Tyler, White, Woodbury—28.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Clayton, Foot, Frelinghuysen, Holmes, Knight, Marks, Naudain, Robbins, Ruggles, Seymour, Silsbee, Sprague, Webster, Willey—19.

The Senate then adjourned.

MONDAY, April 26.

#### *Impeachment of Judge Peck.*

Messrs. BUCHANAN and STORES, members of the House of Representatives, with a message from that House, were announced; and, having taken the seats assigned them,

The PRESIDENT informed them that the Senate was ready to receive any communication they might have to make.

Mr. BUCHANAN then rose and said: We are commanded, in the name of the House of Representatives, and of all the people of the United States, to impeach James H. Peck,

Judge of the District Court of Missouri, of high misdemeanors in office; and to acquaint the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same; and we do demand that the Senate take order for the appearance of the said James H. Peck, to answer to said impeachment.

Messrs. BUCHANAN and STORES having retired, Mr. TAZEWELL rose and said, that in looking over similar cases, for the purpose of ascertaining what would be the proper course of proceeding, he discovered that messages, similar in most particulars to the one just received, had been presented to the Senate in three cases. The first was the case of John Blount, one of the members of this body; the next was that of John Pickering, Judge of the District Court of New Hampshire; and the third was that of Judge Chase. Upon each of these cases there seemed to have been some anxious consideration, in order to adopt the course most proper to be pursued. Mr. T. would state in what the proceedings in these cases differed. The case of Mr. Blount being the first of the kind that had ever occurred, presented so anomalous a practice that it never could be referred to as a precedent. The other two were consistent with the general principles of law and justice. From these it seems that it had been settled, that, when the House of Representatives informed the Senate that they were about to present articles of impeachment, a Select Committee was appointed to take the subject into consideration, and report what measures were proper to be taken. He would read, for the information of the Senate, the cases as they occurred.

[Mr. T. then read from the Senate Journal as follows:]

"In the Senate of the United States, March 3d, 1808.

"A message was received from the House of Representatives, by Messrs Nicholson and Randolph, two of the members of said House, in the words following:

"Mr. President, we are commanded in the name of the House of Representatives, and of all the people of the United States, to impeach John Pickering, Judge of the District Court of the district of New Hampshire, of high crimes and misdemeanors, and to acquaint the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same.

"We are further commanded to demand that the Senate take order for the appearance of the said John Pickering, to answer to the said impeachment.

"On motion,

"Ordered, That the message received this day from the House of Representatives, respecting the impeachment of John Pickering, Judge of a District Court, be referred to Messrs. Tracy, Clinton, and Nicholas, to consider and report thereon."

In the case of Judge Chase, the articles of impeachment were presented at the bar of the Senate by Messrs. Randolph, Rodney, Nichol-

APRIL, 1880.]

*Pension Laws.*

[SENATE.]

son, Earley, Nelson, and Geo. W. Campbell, managers on the part of the House of Representatives. [Mr. TAZEWEILL here read the proceedings, from which it appeared that the Senate had previously decided what forms should be observed in receiving the articles of impeachment, and that the managers, on appearing at the bar of the Senate, were prepared with and presented the articles.]

The case of Blount was not exactly similar to either of the cases he had cited. This was in the year 1797. [Mr. T. then read the proceedings of that case.] The idea, said Mr. T., of calling upon an individual to enter into a recognizance to appear at no named time, at no given place, and to answer to charges the Lord knew what, (for no articles of impeachment had been made out,) was so manifestly contrary to justice, that the Senate itself seemed to have abandoned it, for the accused did not appear, and no further proceedings were had, until the next session of Congress. Under all the circumstances, Mr. T. took it for granted that Blount's case would not be considered as a fit precedent, but that the proceedings in the cases of Pickering and Chase would be resorted to; and he therefore moved that the message of the House of Representatives be referred to a Select Committee, to consist of three Senators, to consider and report thereon.

Mr. TAZEWEILL's motion having been carried,

Mr. BENTON asked to be excused from voting on the subject; and the question being taken, Mr. B. was excused.

The Senate then proceeded to ballot for a committee; and, on counting the ballots, it appeared that Messrs. TAZEWEILL, BELL, and WEBSTER were chosen.

TUESDAY, April 27.

*Judge Peck.*

Mr. TAZEWEILL, from the Select Committee appointed on the subject, made the following report, which was concurred in by the Senate:

Whereas the House of Representatives on the 26th of the present month, by two of their members, Messrs. BUCHANAN, and STORRS of New York, at the bar of the Senate, impeached James H. Peck, Judge of the District Court of the United States for the District of Missouri, of high misdemeanors in office, and acquainted the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same; and likewise demanded, that the Senate take order for the appearance of the said James H. Peck, to answer the said impeachment: Therefore,

*Resolved*, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives.

And the committee further recommended to the Senate, that the Secretary of the Senate be directed to notify the House of Representatives of the foregoing resolution.

THURSDAY, April 29.

*Pension Laws.*

On motion of Mr. FOOT, the bill from the House of Representatives "declaratory of the several acts to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war," was resumed, with the amendment of the Pension Committee.

Mr. FOOT explained at large the object of the bill as it has been proposed to be amended by the committee.

Mr. HAYNE said, this was a bill similar in its character to that which was brought forward during the last session of Congress, and which was then known by the significant appellation of the Mammoth Pension bill. Under the specious pretext of paying a debt of national gratitude to the soldiers of the revolution, it was calculated to empty the Treasury, by squandering away the public treasure among a class of persons, many of whom, said Mr. H., I do verily believe, never served in the revolution at all, and others only for such short periods as hardly to entitle them to praise. I will yield, sir, to no gentleman here, in a deep and abiding sense of gratitude for revolutionary services. Brought up among revolutionary men, I imbibed in my infancy, and have cherished through life, a profound reverence and affection for the whole race—feelings which will descend with me to the grave.

But, sir, when the attempt is made to thrust into the company of the war-worn veterans of the revolution, a "mighty host," many of whom, probably, never even saw an enemy; when a door is to be opened wide enough to admit mere sunshine and holiday soldiers, the hangers-on of the camp, men of straw, substitutes, who never enlisted until after the preliminaries of peace were signed; when, after having omitted to pay the debt of gratitude really due to the honest veterans who toiled through all the hardships and dangers of the great contest, you now propose to give the rewards earned by their blood, with so profuse a hand as to enable all who ever approached the camp to share them; I must be permitted to say, that neither my sense of justice, nor my devotion to revolutionary men, will suffer me to lend my aid to the consummation of the injustice. Sir, I know that deep as have been the wounds inflicted by the chilling neglect experienced by many of these gallant officers of the army who fought your battles throughout the war of the revolution; keenly as they have felt the injustice which delayed, until a recent period, to satisfy their just demands, founded upon contract, none of these things, nor all combined, have inflicted so deep a wound upon their feelings, as the admission, to all the honors and rewards of the revolution, of persons who shared few of the hardships, and none of the perils, of the war. He who toiled through the heat of the day, has found the evening



feast spread out for those whom he knew not in the camp, or on the field of battle, and whom he never saw till he found them at the festive board provided by the gratitude of the country.

Sir, I am informed, from the highest authority, that, when the pension bill of 1818 was before Congress, providing for the "nine months' men," a gallant veteran of the revolution, then a member of the other House, was so indignant at its provisions, that he declared he considered the soldiers who had served throughout the war as dishonored by a law recognizing, as equals, the class of persons who would come in under that bill; and such, I have reason to believe, was the general sense of all such men throughout the country.

It has been my pride and pleasure, on all proper occasions, to manifest my gratitude for the heroes of the revolution, not merely by professions, but by the most unequivocal acts. Here and elsewhere, my efforts have not been wanting to manifest the sentiments by which I am animated. But, in refusing to support such a bill as this, I am conscious I am only doing that of which the veterans of the revolution themselves, if they were here present, would cordially approve. In doing justice to the country, I am also doing justice to them.

In the further examination of this subject, I propose, said Mr. H., to take a brief review of the pension system in this country, and to point out the new, extravagant, and alarming provisions which it is proposed, by this act, to introduce into that system.

The people of the United States, even before the revolution, had imbibed a deep-rooted and settled opposition to the system of pensions.

In the country from which they had emigrated, they found it operating as a system of favoritism, by which those in authority made provision, at the public expense, for their friends and followers. In Great Britain, pensions have long been used as the ready means of providing for the "favored few," at the expense of the many. This system affords the most convenient means of appropriating the industry and capital of the laboring classes, for the support of those drones in society, the "*fruges nati consumere*," who occupy so large a space in all refined, civilized, and Christian countries. Our ancestors had seen, and severely felt, the effects of such a system, which necessarily converts the great mass of the people into the "hewers of wood and drawers of water" for the privileged orders of society. When our revolution commenced, therefore, a deep, settled, and salutary prejudice against pensions almost universally prevailed. On the recommendation of General Washington, however, Congress had found it necessary to provide that the officers of the regular army who should continue to serve to the end of the war, should be entitled "to half pay for life." So strong, however, was the prejudice against pensions, that the officers entitled "to half pay

for life," found it necessary so far to yield to public opinion as to accept of a "commutation," in lieu thereof, of five years' full pay, a debt which was not finally discharged, according to the true spirit of the contract, until about two years ago.

In 1806, provision was made by law for pensions to all persons disabled in the military service of the United States during the revolution; and, in 1808, the United States assumed the payment of all the pensions granted by the States for disabilities incurred in the revolution. And, from that time to 1818, the principle was settled, that all persons disabled in the course of military service should be provided for at the public expense, and the United States took upon themselves the payment of pensions to such persons, "whether they served in the land or sea service of the forces of the United States, or any particular State, in the regular corps, or the militia, or as volunteers." Here, then, was the American pension system established on a fast and sure foundation. The principle assumed was not merely gratitude for services rendered; for that principle must have embraced civil as well as military pensions, and is broad enough to admit all the abuses that have grown up under the pension system even of Great Britain. Our principle was, that pensions should be granted for disabilities incurred in military service—a measure deemed necessary to hold out those inducements to gallantry and deeds of daring which have been found necessary in all other countries, and which we have, perhaps, no right to suppose can be safely dispensed with in ours.

Here, then, we find, that, up to the year 1818, the principle of our pension system was disability, a wise and safe principle, limited in its extent, and almost incapable of abuse.

In 1818, however, the Representatives of the people, in Congress assembled, seem to have been seized with a sudden fit of gratitude for revolutionary services; an act was accordingly passed, which provided for pensioning all who served in the army of the revolution "for the term of nine months, or longer, at any period of the war," and "who, by reason of reduced circumstances, shall stand in need of assistance from their country for support." [See act of 18th March, 1818.] Here, it will be seen that the principle which limits pensions to disabilities incurred in the service is abandoned, and length of service and poverty are made the conditions on which pensions are hereafter to depend. The history of that bill, as I have heard it from the lips of those who were actors in the political scenes of that day, is not a little curious. All agreed that the operation of the bill was to be confined to those who had, during the revolution, given up their private pursuits, and devoted themselves exclusively to military service. No one imagined, for a moment, that any person who had rendered casual services merely; men who had only shared, in common with all the other citizens of the coun-

APRIL, 1880.]

*Pension Laws.*

[SENATE,

try, the dangers and sacrifices of the times, were to be the objects of public bounty. The original proposition, therefore, was to confine the provisions of the bill to those who had served in the regular army, either during the war, or for a term of three years, and who stood in need of assistance from their country for support. But, sir, in the progress of that bill it was discovered that, in a certain quarter of the Union, a number of soldiers had been enlisted for a term of only nine months, and, to cover their case, "three years" was stricken out, and "nine months" inserted. Sir, no one foresaw the consequences of that measure. It was supposed that even this provision would include only a few hundred men. The whole charge upon the Treasury was estimated at one hundred and sixty thousand dollars. And, seduced by this expectation, and by the popular cry of "Justice to the old soldiers," Congress were persuaded to pass a bill which they were assured could not make any very considerable addition to the pension list, which would be lessened from year to year, and would soon cease to exist. And what, sir, was the result? What a lesson does it read to legislators! How forcibly does it admonish us to weigh well the provisions of this bill, before we undertake to enlarge or extend the pension law of 1818. I have applied to the Pension Office for information on this subject, and hold in my hand the official report of the officer at the head of that department. In giving the result, I shall not aim at minute accuracy.

The number of applicants for pensions, under the act of 1818, considerably exceeded thirty thousand! a number greater than that of General Washington's army, at any period of the war; exceeding the whole number of soldiers that could be supposed to be alive in 1818. Notwithstanding the "rigid rules" laid down by the Department of War, it was found impossible to exclude the applicants. Upwards of eighteen thousand were admitted and placed on the pension roll, one-third of whom, at least, (as it afterwards appeared,) had no claim to be there. The claims of upwards of twelve thousand of the applicants were found, even at the first examination, to be entirely groundless, and were accordingly rejected. The money required to pay the pensions was found to be, not one hundred and sixty thousand dollars, as had been estimated, but between two and three millions. The very first year, Congress had to appropriate for pensions, under the act of 1818, one million eight hundred and forty-seven thousand nine hundred dollars; and the next year, two millions seven hundred and sixty-six thousand four hundred and forty dollars, which, with the appropriations for invalid pensions, made the whole amount appropriated in that year for pensions, three millions one hundred and eight thousand three hundred and three dollars. And no one can tell to what extent these appropriations would have been carried, if Congress had not interposed to correct the

evil. The whole country had become alarmed. No one doubted that an immense number of persons were receiving pensions, who had no claim to them whatever. Men who had never served at all, or for very short periods; men who had given away their property to their children, or conveyed it in trust for their own benefit; in short, every one who was old enough to have served in the revolution, found little difficulty (notwithstanding the rigid rules of the War Department, of which we now hear so much complaint) in getting themselves placed upon the pension list.

To rescue the country from this enormous evil, the act of 1st May, 1820, was passed, which, without changing the terms and conditions on which pensions were to be granted, (still requiring service "for a term of nine months," and "indigent circumstances,") yet provided guards against frauds, by requiring every applicant to submit "a schedule of his property," and to take the necessary "oaths," &c. Sir, under the provisions of this act, intended only to prevent frauds, upwards of six thousand persons were stricken from the pension roll. Two thousand three hundred and eighty-nine never even presented a schedule, or made an application under this act; and the Treasury was thus relieved from a charge of a million of dollars per annum.

Now, sir, with the experience afforded by this case, one would really suppose that the very last thing that any statesman would propose would be still further to enlarge and extend the provisions of the act of 1818, again to unlock the Treasury, which was wisely closed by the act of 1820, and subject it to a charge similar in character, and probably much greater in amount, than was imposed by that law, and to open a wide door to all the evils, aye, and much greater evils than were experienced by the country under the operation of that act.

I will put it to the chairman of the committee who reported this bill: Is he satisfied of the wisdom and justice of the act of 1818? The gentleman says, "it ought never to have been passed." Well, sir, while the gentleman acknowledges that that act was impolitic and unjust, and "ought never to have been passed," how can he advocate this bill, which enlarges and extends every objectionable feature of the former law?

Sir, if we have already taken a rash and unadvised step in this business, it is better for us to go back, or at least to stop where we are; but assuredly we ought not to advance and press forward in error, regardless of consequences.

I come now to the examination of the character of the proposed measure. We have before us two bills: the first has already passed the House of Representatives; the second is proposed as an amendment, by the Committee of Pensions of the Senate. They both purport to be acts merely declaratory of the acts of

SENATE.]

*Pension Laws.*

[April, 1880.]

1818 and 1820, and they are supported on the avowed ground that they are not intended to change the pension system, but merely to correct some misconstructions of those acts on the part of the officers of the War Department.

If, sir, I shall be able to show that there have been no such "misconstructions," and that there exists no necessity whatever for any "declaratory act," will I not have a right to expect that gentlemen who now support this bill will at once abandon it? I know, sir, the expectation would be vain; for the truth cannot be disguised, that it is the real object of this bill greatly to enlarge and extend the pension system, by the introduction of new, and, as I believe, most alarming provisions. This is no declaratory act. The acts of 1818 and 1820 provide that pensions shall be granted to persons who served in the regular army of the revolution, on two conditions: 1st. That they should have served for a "term of nine months or longer, at any period of the war;" 2d. That, by reason of reduced circumstances, "they shall be in need of assistance from their country for support." Now, sir, what are the "misconstructions" which make a declaratory act now necessary?

It is alleged,

First. That "the term of nine months' service" has been required by the Secretary of War to be a "continuous service;" and it is proposed to provide that an applicant for a pension "shall be deemed to have served for the term of nine months, if he shall have served nine months under one or several enlistments, whether continuous or not."

And it is alleged,

Secondly. That, in examining the "circumstances" of applicants for pensions, no fixed amount of property has been considered as conclusive of "indigent circumstances," but the character, habits, place of residence, family, &c., &c., have all been taken into account; and it is now proposed by the bill from the House of Representatives, to provide that a man "shall be deemed and taken to be unable to support himself without the assistance of his country, if the whole amount of his property, exclusive of household furniture, &c., shall not exceed the sum of one thousand dollars, all debts from him justly due and owing being first deducted." By way of guarding against frauds, it is added, "that the applicant shall not be required to show what his circumstances or condition in life were, or what property he was possessed of at any time prior to the passage of this act;" the plain interpretation of which is, that, if any man, before this act receives the sanction of the President, shall give away his estate to his children, he shall, notwithstanding, have his pension.

Now, in what respect has the act of 1818 been "misconstrued?" How far are the bills before us "declaratory?" It is alleged that service for a "term of nine months" does not imply nine months continuously. But I appre-

hend they can only relate to continuous service under one enlistment. A term is a technical phrase, and, when applied to judicial or military service, always relates to an unbroken period of time. The term of a court, we all know, has this signification; and, in military language, the "term of service" relates to the period of a soldier's continuous service under one enlistment. That it was so used in the law, is obvious. The truth is, this provision was inserted for the avowed purpose of covering a certain class of troops, known to have served under an enlistment for nine months. And the words, "a term of nine months, at any period during the war," can admit of no other construction. If it had been intended to embrace mere casual service, under various engagements, amounting in the whole to nine months, the expression would have been, "who served for nine months during the war," or (as proposed in this bill) "whether continuous or not."

So far, therefore, as this bill relates to "the term of service," it is not "declaratory" of the old law, but substitutes a new, and, as I think, a dangerous rule, for that prescribed by the former law, as construed and uniformly acted upon by the Department of War.

Let us next inquire into the probable effect of the proposed provision. Who are the persons now excluded from the benefits of the existing law? They are those who, during the whole course of a war of seven years, (a bloody and arduous contest, brought to the door of every man,) served in all only nine months, and that, too, at various periods.

Now, let it be recollected that the law relates only to enlisted soldiers of the regular army; let it also be remembered that enlistments, until after the preliminaries of peace were signed, were for fixed periods, of greater or less duration: some (as in the case of the Maryland line) enlisted "during the war," others for a "term of three years," and almost all of the rest for "the term of nine months." If I am not greatly misinformed, it was after the fighting had ceased—after the capture of Cornwallis (which took place in October, '81)—after the preliminaries of peace were signed, (in November, '82,) that enlistments were entered into for "nine months or less." The gentleman says, there were some enlistments made at an earlier period for eight months, and that many of these men continued in service under a new engagement, after the expiration of their first term. I wish the gentleman had favored us with a statement of the number of such enlistments; I am assured they were not numerous, and that a provision so framed as to cover such cases would operate but on a few individuals. But if the object is merely to provide a remedy for those cases of special hardship, let provision be made for persons who enlisted for eight months, and entered into "new engagements at the expiration of their term." Provide, if you please, "for persons who were

APRIL, 1830.]

*Pension Laws.*

[SENATE.]

taken prisoners, or who were confined in prison ships," (cases on which gentlemen so strongly rely,) if they are not already provided for under the act of 1818. No one will complain of provisions intended to apply to special cases of peculiar hardship. But, instead of making such provisions, attempts are made for breaking down all the barriers against fraud. These bills propose to throw open the door of the Treasury, so as to permit all who choose to do so, to enter, and help themselves at pleasure.

Sir, I deny the policy or justice of the act of 1818. It departs entirely from every sound principle applicable to pensions, and has provided for that large class of persons whose services were in no respect more valuable than those of the great body of the people. Who were the "nine months' men," admitted under the act of 1818? They were chiefly those who entered the service after the capture of Cornwallis. A large proportion of them served only between the date of the provisional article of peace, in November, 1782, and the adoption of the definitive articles, in September, 1783.

From what I can learn, a large majority of those who were admitted to pensions under the act of 1818, never saw any service, except during the two years which elapsed between the capture of Cornwallis and the establishment of peace. I have been unable to obtain any detailed information on this point. But I am told that the average ages of these eighteen thousand pensioners, at the date of their application, proved that they could only have served towards the close of the war. Of this vast number, but little more than three thousand claimed to have served through the war; so that it is unquestionable, that the bounty of the Government, under the act of 1818, has been chiefly extended to those who never abandoned their private pursuits, who did not devote themselves exclusively to military service, and who, therefore, were not embraced within any sound and safe principle applicable to pensions in a republican Government.

But if such was the true character, and such the operation of that act, what will be the effect of this bill? While the law required "a term of service of nine months or longer," although persons might be admitted who had rendered no efficient service, yet you had some security against abuse, by requiring specific proof of a continuous service under one enlistment, with the power, in most cases, of referring to the original muster rolls, and thereby detecting all attempts at imposition. Now, however, that the most casual service, and for the shortest periods, is to be taken into the account, who can fail to perceive how much the chances of imposition will be multiplied? Resort must be had to oral testimony. And what more uncertain than the memory of man, as to the duration of another's service half a century ago? Who is there that ever served a month in the army, or who was even a follower

of the camp, that will not be able to adduce certificates to show that he served for just so long a time as he may choose to lay claim to.

But, sir, there is a stronger objection to this measure even, than its liability to abuse. It is, that it rests on no sound principle applicable to military pensions. If there be any principle recognized and fully established in this country, it is, that pensions must be confined to those who were separated, by the nature of their service, from the great mass of the community, and who devoted themselves exclusively to military duties. It is a palpable absurdity to talk of giving pensions to all the people. Those who, in the course of the revolution, performed, only in common with the rest of their countrymen, the military service required of every citizen, stand upon an equal footing. He alone, who, in the strictest sense, put off the citizen and became a soldier, and who, in abandoning the pursuits, relinquished also the habits of private life, can have any just claim to be provided for at the public expense. I speak not now of physical disabilities incurred in the public service, this class of cases having been amply provided for under the acts of 1806 and 1808. But, with regard to claims depending entirely upon length of service, if we once depart from the rule I have laid down, and declare that mere casual service for short periods, and at long intervals, shall entitle a man to a pension, you cannot stop short of pensioning all who rendered any service whatever in the course of the revolution. All the State troops will be embraced within this principle; and this bill, accordingly, proposes to provide for them. The militia will come next; for what true-hearted whig was there in all America who did not, in the course of the seven years' war, render, from time to time, services equal in the whole to the period of "nine months?" I think I may very confidently assert, that there was not, in the State of South Carolina, one genuine patriot of '76 capable of bearing arms, who did not, in the course of the revolution, spend more than nine months in the camp; and I should be glad to be informed on what principle they can be excluded, if these nine months' men are to be embraced? But I shall be told that the militia will all in due season be provided for, a proposition to that effect having already been submitted in the other House. It comes, then, to this, that all are to be pensioned who rendered military service of any description during the war. But were not services equally valuable rendered by men in civil stations? All these must of course be included; and it will finally come to this, that pensions must be provided for every one who lived at the period of the revolution; you cannot stop short of that, if the principle embraced in the bill is to be sanctioned. So much for "the term of service."

The next provision of the bill relates to "the circumstances in life" of the persons to be pen-

sioned. The rule on this subject prescribed by the acts of '18 and '20, and hitherto considered as the very foundation of the pension system, was, that the pensioners should be "in such indigent circumstances as to stand in need of assistance from their country for support." I should have supposed that no one could for a moment doubt the policy, the propriety, nay, the absolute necessity, of this rule. No country which has ever passed through a bloody revolution, could possibly undertake to distribute rewards for every service. In bestowing military pensions, they are constrained to act on the principle of merely providing for those who, being unable to support themselves, are necessarily thrown upon public or private charity. Military pensions constitute an honorable provision for old soldiers of broken fortunes. But what is the proposition now before us? Why, sir, the pension system is no longer to be confined to persons in reduced circumstances. The bill from the other House expressly declares, that every man shall be "deemed and taken" to be in indigent circumstances, and unable to support himself, who shall not be worth more than one thousand dollars clear of debt. Now, can any thing be more absurd than such a provision? A man may be in possession of an estate worth half a million of dollars; he may have a clear income from such an estate (or from professional pursuits) of twenty or thirty thousand dollars a year; and yet, if his debts exceed the estimated value of his estate, the law declares he shall be "deemed and taken to be unable to support himself." Sir, I give all due praise to the committee of the Senate for their judicious recommendation that this monstrous provision should be stricken out; but I must be permitted to add, that I should have been better pleased if they had reformed the section altogether. I perceive they have retained the provision which fixes one thousand dollars as an arbitrary standard to determine a man's circumstances in life. Nothing, it seems to me, can be conceived more unequal or unjust than to measure men's circumstances in life by such a rule. Of two men possessed of the same amount of property, one may be in easy circumstances, while the other will be poor indeed. A man enjoying a green old age on a farm in the western country, with an industrious family around him, would be as independent as any man alive; while the inhabitant of one of our Atlantic cities, with an equal amount of property invested in land or in stock, would not be able to procure his daily bread. One man may be entirely disabled, from age or infirmity, from earning his subsistence, or he may have a helpless family depending upon him for support; another may be in the enjoyment of a large professional income, or he may be surrounded by dutiful children in affluent circumstances. Will any one pretend that these men would stand in equal need of "assistance from their country for support?" I confess I

am unable to discover a single argument in favor of the arbitrary rule laid down by the committee, unless, indeed, it be desirable to increase the number of pensioners: that it will produce that effect, no one can doubt. The truth is, that, in looking into the circumstances of pensioners, the officers who have been successively at the head of the War Department, have found it absolutely necessary (to keep the pension system within any thing like reasonable bounds) to resort to rigid rules. Under the administration of Mr. Calhoun, but one person was admitted whose fortune exceeded three hundred and fifty dollars, and the great majority fell below two hundred and fifty dollars; and yet the Treasury was nearly emptied by the multitude which poured in under the act of 1818. Under Mr. Barbour, none were admitted whose fortune exceeded three hundred dollars. General Porter, a short time before he went out of office, undertook to admit persons whose fortune did not exceed nine hundred and sixty dollars. The consequence was, the addition of several hundred names to the pension list within a few months; the appropriations failed; and one of the very first acts of General Jackson's administration was to rescind the order made by General Porter, and to bring back the system to the old standard.

But, sir, there are higher considerations connected with this question than any I have yet urged. I consider this bill as a branch of a great system, calculated and intended to create and perpetuate a permanent charge upon the Treasury, with a view to delay the payment of the public debt, and to postpone, indefinitely, the claims of the people for a reduction of taxes, when the debt shall be finally extinguished. It is an important link in the chain by which the American system party hope to bind the people, now and forever, to the payment of the enormous duties deemed necessary for the protection of domestic manufactures. It is obvious to every one, that a great crisis in the affairs of this country is at hand. The national debt, which now creates a charge upon the Treasury of twelve millions of dollars per annum, is melting away, under the operation of our "sinking fund;" which, if not diverted from its course, will, in less than four years, totally extinguish it. One-half, therefore, of the whole amount of the revenue now collected through the custom-house will no longer be wanted for national purposes; and the great question will be presented to the American people, whether they will submit to be taxed to the amount of twelve millions a year, merely for the purpose of enabling the manufacturers to fill their pockets at the expense of all other classes in the community, or for the still more preposterous purpose of paying back the taxes so collected to the people from whom they were taken.

The manufacturers know full well that such a question, whenever presented to the justice and good sense of the people, can receive but

APRIL, 1830.]

*Pension Laws.*

[SENATE.]

one answer. The duties will be reduced; and any party that sets itself in opposition to such a measure, will be swept away by the breath of popular indignation, like chaff before the wind. Seeing and believing this, all those who have an interest in the promotion of the restrictive system—all who derive a profit from the present unjust and unequal distribution of the public revenue, have been for the last two years anxiously looking about them, and are constantly contriving schemes for scattering abroad the public funds with a profuse hand. They are striving, above all things, to create heavy permanent charges upon the Treasury, as an apology for high duties. The point aimed at is, to create demands upon the Treasury, equal, at least, to the whole amount now annually absorbed by the public debt. The great effort will be, to accomplish this fully in the course of the ensuing four years; so that, when the debt shall be paid, the whole twenty-four millions of dollars now collected under our present unjust, unequal, and oppressive impost laws, may still be found necessary to meet the demands upon the Treasury created by law.

It is impossible, sir, it seems to me, for any man to look around him, and see what is going on in both Houses of Congress, without perceiving that this is a fixed and settled policy, to which the attention of the party to which I have alluded, is constantly and steadily directed. We witness the astonishing spectacle, in a free, popular Government, of constant and persevering efforts to increase the public expenditures; to spend money merely for the sake of having it expended; and we find the representatives of the people devising and contriving innumerable schemes to rivet upon them a system of taxation, which, both in its character and amount, is almost without a parallel in history. All the popular topics of the day are eagerly seized upon, and pressed into the service. Under the pretext of promoting the internal improvement of the country, gigantic schemes are brought forward, and the aid of the Government obtained for them to enormous amounts. The execution of all the plans of internal improvement proposed even during the present session of Congress, would absorb the whole amount now annually applied to the public debt. But the advocates of this system are unwilling to rely on one class of measures only. We have schemes for colonization, education, distribution of surplus revenue, and many others, all admirably calculated to promote the great end—the absorption of the public revenue. But, sir, of all the measures devised for this purpose, this grand pension system, got up last year, and revived during the present session, is by far the most specious, the most ingeniously contrived, and the best calculated for the accomplishment of the object. Here gentlemen are supplied with a fine topic for declamation. "Gratitude for revolutionary services!" "the claims of the poor soldiers!"—these are the popular topics which it

is imagined will carry away the feelings of the people, and reconcile them to a measure which must unquestionably establish a permanent charge upon the Treasury to an enormous amount, and thereby furnish a plausible excuse for keeping up the system of high duties.

To prove that such is the true character of this bill, I will appeal to its liberal and most extraordinary provisions; its entire departure from all sound principles applicable to pensions; and, above all, to the time when, and the circumstances under which, it has been brought forward. These are, to my mind, entirely conclusive. When I show that the pensioners who will be embraced within the provisions of this bill, have no stronger claims to pensions than all the citizens of the country who rendered service in the Revolution, the answer is at hand. It is intended, in due season, to extend the system to them also. When I urge the experience of the country under the act of 1818, as conclusive, to show the unjust operation of the system, and the enormous charge created by it on the public treasury, I am told that though that act "ought never to have passed," yet this bill is necessary to carry out and extend its principles. But there is one fact which speaks volumes on this subject. How comes it, that this spirit of gratitude for Revolutionary services should have slumbered for fifty years? How has it happened that it has never been discovered until now, that the men who are to be embraced within the provisions of this bill are entitled to the bounty of their country? Why is it, that, without a single petition praying for such an addition to the pension system as this bill proposes, we should be seized with such a sudden and inveterate fit of gratitude to the old soldiers, that we seemed determined to seize them by force, and, taking no denial, to insist on their receiving our bounty, whether they will or no? Sir, the reason is obvious. The period for the final extinction of the public debt is at hand. Colonization has not yet been sanctioned; internal improvement advances too slowly; the distribution of the revenue meets but small favor; the existence of a surplus must, by some means or other, be prevented; and this must be accomplished without any reduction of duties. The friends of the system have therefore gone forth upon the highways, and "all are bidden to the feast."

There is another great object collateral to this, and having, I do verily believe, an important bearing on this measure. Sir, it is not to be denied that this country is divided into two great parts, the paying and the receiving States, or, as they have been sometimes called, "the Plantation States" and "the Tariff States;" the former paying by far the greater portion of the duties which supply the Treasury, and the latter receiving nearly the whole amount expended by the Federal Government. The present system operates so as to lay the taxes chiefly on one portion of the country, and to expend them on another; and

while, therefore, it is the interest of the former to diminish the expenditures, and to lessen the taxes, it is manifestly the policy of the latter to increase both.

I do not know that a more striking illustration of the unequal action of this Government can be adduced, than is furnished by the operation of the pension system. Sir, no one can doubt that the sacrifices and services, during the Revolution, of the Southern were in no respect inferior to those of the Northern States. In proportion to the extent of her population, South Carolina fought as hard and as long as any State in the Union, and suffered, perhaps, more. But when pensions came to be distributed, how did the account stand? I have before me official statements showing the whole number of invalid and Revolutionary pensioners of every State of the Union, and also the whole amount of money appropriated for the payment of these pensioners from the beginning of the Government to this time. These statements exhibit the following results :

Whole amount of appropriations for pensions under act of 1818, - - -	\$14,174,274 50
All other pensioners, from the beginning of the Government, -	6,861,396 08

\$20,535,670 58

Making in all, upwards of twenty millions of dollars.

The whole number of names now on the pension roll of invalid pensioners, is, - - -	3,794
Revolutionary pensioners, - - -	12,201

15,995

Say, in round numbers, sixteen thousand. Of these, about twelve thousand reside in the ten States north of Maryland, and four thousand in the fourteen Southern and Western States. The number of pensioners in Connecticut exceeds those in Virginia—and Rhode Island nearly equals South Carolina and Georgia. Assuming these data as the basis of our calculations, it would appear that, of the twenty millions paid to pensioners, about fifteen millions have gone North, and only five millions have been expended in the South and West, and that three millions out of every four hereafter to be applied to pensions, will be expended north of the Potomac. Sir, although we know that the Revolutionary services of the North did not surpass those of the South, we never complained of this inequality in the expenditure, so long as the pension system was confined to the proper objects of national bounty. But when it degenerates into a mere scheme for the distribution of the public money, we have a right to complain of the gross inequality of the system. I will not say that it is the object of this bill to make a distribution of the public revenue among the people on unjust and unequal principles, but I will say that this will unquestionably be its effect.

I know, sir, that these are unpleasant topics of discussion; but the truth must be told; and, whether acceptable or not, it is my duty, stand-

ing here as one of the representatives of a portion of the country oppressed and afflicted by unequal contributions and unequal expenditures, to expose the true character of the system, and to strive against it to the uttermost. Sir, I would, if I could, rouse the whole country to a due sense of its enormity. I would invoke gentlemen to put down that gross inequality in the benefits and burthens of this Government, which, if not corrected, will, in the end, impair the attachment of the people in the Union itself. I allude to this subject now, not for the purpose of spreading discontent, but to strike at the root of evil, by pointing out its enormity, and calling upon honorable gentlemen, as they love their country, to apply the remedy.

If the revenues of the United States were collected by direct taxation, or even by assessment upon the States, we should have some security against extravagant expenditures. If every portion of the country contributed its equal share to the national Treasury, we should not hear of so many propositions to squander millions upon local objects; we should not find gentlemen disposed to vote away the money of their constituents with as much indifference as if it could be created by a mere act of volition, and was not the fruit of the labor of their hands. It is the fact (well known and understood, at least in one quarter of the country) that the Southern States pay by far the greater portion of the taxes, while they receive hardly any part of the expenditures, which leads to that lavish distribution of the public treasure, which, we are told, has now become "the established policy of this country." The parents of the American System are unequal taxation and unequal appropriations; to them it owes its being; and without their sustaining influence it would be destined, after dragging out a brief and precarious existence, to "perish miserably."

I am sensible that this is not the appropriate occasion to enter at large into this deeply interesting question. I must reserve that task for another and more suitable opportunity. I must be permitted, however, to say, that I believe it to be susceptible of the clearest proof, that the plantation or anti-tariff States, containing, in round numbers, four millions of inhabitants, (only one-third of the whole population of the United States,) contribute, directly or indirectly, about two-thirds of the revenue, while the tariff States (containing eight millions of inhabitants) pay about one-third of the taxes. Sir, this opinion is founded chiefly upon the fact, that the Southern States furnish two-thirds of the whole amount of the domestic exports of the United States, thereby furnishing the articles of exchange for two-thirds of all the importations from foreign countries. Nearly the whole revenue of the country, equal, in round numbers, to twenty-four millions of dollars per annum, is levied in duties on these foreign goods. Now, if we consume the goods received in exchange for our cotton, rice, and tobacco, no one would deny that we must pay

MAY, 1830.]

*Impeachment of Judge Peck.*

[SENATE.]

two-thirds of the taxes; and if we do not consume them, then, I would ask, how does it happen that our Northern brethren are enabled to consume the fruits of our labor and capital? Two-thirds of these foreign goods of right belong to us; and if we get, as is alleged, but one-third, and our Northern brethren obtain the remainder, surely we must be entitled to some remuneration. "Well, (say gentlemen,) we pay you for these goods in Northern manufactures." True, sir; and it is the very burthen of our complaints, that we are compelled to receive, in return for our cotton, rice, and tobacco, shipped to Europe, either foreign goods, burthened with duties of from forty to a hundred per cent., or domestic manufactures protected by these duties, and charged with a price sufficient to indemnify the Northern manufacturers for all the duties paid on the articles of their consumption. However true, therefore, it may be in general, that "the consumer pays the duty," it is only true when a man is considered simply in his character as a consumer; but when he acts in the double capacity of consumer and manufacturer, under a system of laws which, at the same time that it taxes him on his consumption, enables him to re-charge the amount of the tax in the price of his manufactures, (which his customers are compelled to buy at the enhanced cost,) it is obvious that he may relieve himself entirely from the tax, by throwing it upon others. If, under a law which taxes a man one dollar, he receives two, it is clear that, instead of being burthened with a tax, he would receive a bounty. Under the actual operation of the American System, I do not think there would be any material difference between a tax upon exports or upon imports. I believe they would both fall substantially upon the producers of the articles exported, these being the only medium of exchange for our imports. That the tariff States, as such, under the operation of the tariff laws, are fully indemnified for the duties paid by them on foreign goods, is conclusively proved by the fact that they zealously support the "American System," and are perpetually crying out for more taxes. But how are the Northern States to relieve themselves from the operation of this system? There are no persons to whom they can transfer the amount of duties imposed upon them. They have no protection in foreign markets for their cotton, and are compelled to receive either the taxed or the protected article at the enhanced price secured to them by the tariff laws. The system, therefore, operates exclusively to the disadvantage of the exporting States, while the manufacturing States are indemnified for their burthens, by reaping all the benefits of the system.

MONDAY, May 3.

*Judge Peck.*

A message having been received from the House of Representatives notifying that they

had appointed Mr. BUCHANAN, of Pennsylvania, Mr. STORRS, of New York, Mr. McDUFFIE, of South Carolina, Mr. SPENCER, of New York, and Mr. WICKLIFFE, of Kentucky, managers to conduct the impeachment of James H. Peck, Judge of the District Court of the United States for the District of Missouri.

On motion by Mr. TAZEVELL, it was

*Resolved*, That, at twelve o'clock to-morrow, the Senate will resolve itself into a Court of Impeachment, at which time the following oath or affirmation shall be administered by the Secretary to the President of the Senate, and by him to each member of the Senate, viz:

"I solemnly swear (or affirm, as the case may be) that, in all things appertaining to the trial of the impeachment of James H. Peck, Judge of the District Court of the United States for the District of Missouri, I will do impartial justice, according to law."

Which Court of Impeachment being thus formed, will, at the time aforesaid, receive the managers appointed by the House of Representatives, to exhibit articles of impeachment, in the name of themselves and of all the people of the United States, against James H. Peck, Judge of the District Court of the United States for the District of Missouri, pursuant to notice given to the Senate this day by the House of Representatives, that they had appointed managers for the purposes aforesaid; and that the Secretary of the Senate lay this resolution before the House of Representatives:

*Resolved*, That after the Managers of the Impeachment shall be introduced to the bar of the Senate, and shall have signified that they are ready to exhibit articles of impeachment against James H. Peck, the President of the Senate shall direct the Sergeant-at-Arms to make proclamation, who shall, after making proclamation, repeat the following words: "All persons are commanded to keep silence, on pain of imprisonment, while the grand inquest of the nation is exhibiting to the Senate of the United States articles of impeachment against James H. Peck, Judge of the District Court of the United States for the District of Missouri." After which, the articles shall be exhibited, and the President of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

TUESDAY, May 4.

*The Impeachment.*

On motion by Mr. TAZEVELL, the Senate resolved itself into a High Court of Impeachment, for the trial of James H. Peck, District Judge of Missouri; and the oath prescribed having been administered to the Vice President, and by him to the forty-five Senators following, viz:

Messrs. Adams, Barnard, Barton, Bell, Bibb, Brown, Burnet, Chase, Clayton, Dickerson, Dudley, Ellis, Foot, Forsyth, Frelinghuysen, Grundy, Hayne,



Hendricks, Holmes, Iredell, Johnston, Kane, King, Knight, Livingston, McKinley, McLean, Marks, Naudain, Noble, Robbins, Rowan, Ruggles, Sanford, Seymour, Silsbee, Smith, of S. C., Sprague, Tazewell, Troup, Tyler, Webster, White, Willey, Woodbury—

The managers appointed by the House of Representatives then appeared at the bar of the Senate; and, having been conducted and seated within the bar, and the usual proclamation to keep silence having been made by the Sergeant-at-Arms, Mr. BUCHANAN, of Pennsylvania, their chairman, rose, and read the following article of impeachment, which had been agreed to by the House of Representatives, against James H. Peck, District Judge of the United States for the District of Missouri:

Article exhibited by the House of Representatives of the United States, in the name of themselves, and of all the people of the United States, against James H. Peck, Judge of the District Court of the United States for the District of Missouri, in maintenance and support of their impeachment against him for high misdemeanors in office.

#### ARTICLE.

That the said James H. Peck, Judge of the District Court of the United States for the District of Missouri, at a term of the said court, holden at St. Louis, in the State of Missouri, on the fourth Monday in December, one thousand eight hundred and twenty-five, did, under and by virtue of the power and authority vested in the said court, by the act of the Congress of the United States, entitled "An act enabling the claimants of lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims," approved on the twenty-sixth day of May, one thousand eight hundred and twenty-four, render a final decree of the said court in favor of the United States, and against the validity of the claim of the petitioners, in a certain matter or cause depending in the said court, under the said act, and before that time prosecuted in the said court, before the said Judge, by Julie Soulard, widow of Antoine Soulard, and James G. Soulard, Henry G. Soulard, Eliza Soulard, and Benjamin A. Soulard, children and heirs at law of the said Antoine Soulard, petitioners against the United States, praying for the confirmation of their claim, under the said act, to certain lands situated in the said State of Missouri; and the said court did, thereafter, on the thirtieth day of December, in the said year, adjourn to sit again on the third Monday in April, one thousand eight hundred and twenty-six.

And the said petitioners did, and at the December term of the said court, holden by and before the said James H. Peck, Judge as aforesaid, in due form of law, under the said act, appeal against the United States from the judgment and decree so made and entered in the said matter, to the Supreme Court of the United States; of which appeal, so made and taken in the said District Court, the said James H. Peck, Judge of the said court, had then and there full notice. And the said James H. Peck, after the said matter or cause had so been duly appealed to the Supreme Court of the United States, and on or about the thirtieth day of March, one thousand eight hundred and twenty-six, did

cause to be published, in a certain public newspaper, printed at the city of St. Louis, called "The Missouri Republican," a certain communication, prepared by the said James H. Peck, purporting to be the opinion of the said James H. Peck, as Judge of the said court, in the matter or cause aforesaid, and purporting to set forth the reasons of the said James H. Peck, as such Judge, for the said decree; and that Luke Edward Lawless, a citizen of the United States, and an attorney and counsellor at law in the said District Court, and who had been of counsel for the petitioners in the said court, in the matter aforesaid, did, thereafter, and on or about the eighth day of April, one thousand eight hundred and twenty-six, cause to be published in a certain other newspaper, printed at the city of St. Louis, called "The Missouri Advocate and St. Louis Enquirer," a certain article signed "A Citizen," and purporting to contain an exposition of certain errors of doctrine and fact alleged to be contained in the opinion of the said James H. Peck, as before that time so published, which publication by the said Luke Edward Lawless was to the effect following, viz.:

#### "To the Editor:

"SIR:—I have read, with the attention which the subject deserves, the opinion of Judge Peck on the claim of the widow and heirs of Antoine Soulard, published in the Republican of the thirtieth ultimo. I observe that, although the Judge has thought proper to decide against the claim, he leaves the grounds of his decree open for further discussion.

"Availing myself, therefore, of this permission, and considering the opinion so published to be a fair subject of examination to every citizen who feels himself interested in, or aggrieved by, its operation, I beg leave to point the attention of the public to some of the principal errors which I think I have discovered in it. In doing so, I shall confine myself to little more than an enumeration of those errors, without entering into any demonstration or developed reasoning on the subject. This would require more space than a newspaper allows, and, besides, is not, as regards most of the points, absolutely necessary.

"Judge Peck, in this opinion, seems to me to have erred in the following assumptions, as well of fact as of doctrine:

"1. That, by the ordinance of 1754, a sub-delegate was prohibited from making a grant in consideration of services rendered or to be rendered.

"2d. That a sub-delegate in Louisiana was not a sub-delegate, as contemplated by the said ordinance.

"3d. That O'Reilly's regulations, made in February, 1770, can be considered as demonstrative of the extent of the granting power of either the governor general or the sub-delegates, under the royal order of August, 1790.

"4th. That the royal order of August, 1770, (as recited or referred to in the preamble to the regulations of Morales, of July, 1799,) related exclusively to the governor general.

"5th. That the word 'mercedes,' in the ordinance of 1754, which, in the Spanish language, means 'gifts,' can be narrowed, by any thing in that ordinance, or in any other law, to the idea of a grant to an Indian, or a reward to an informer, and much less to a mere sale for money.

MAY, 1830.]

*Impeachment of Judge Peck.*

[SENATE.]

"6th. That O'Reilly's regulations were in their terms applicable, or ever were in fact applied to, or published in, Upper Louisiana.

"7th. That the regulations of O'Reilly have any bearing on the grant to Antoine Souldard, or that such a grant was contemplated by them.

"8th. That the limitation to a square league, of grants to new settlers in Opelousas, Attakapas, and Natchitoches, (in 8th article of O'Reilly's regulations,) prohibits a larger grant in Upper Louisiana.

"9th. That the regulations of the governor general, Gayoso, dated 9th September, 1797, entitled 'Instructions to be observed for the admission of new settlers,' prohibit, in future, a grant for services, or have the effect of annulling that to Antoine Souldard, which was made in 1796, and not located or surveyed until February, 1804.

"10th. That the complete titles made by Gayoso are not to be referred to as affording the construction made by Gayoso himself, of his own regulations.

"11th. That, although the regulations of Morales were not promulgated as law in Upper Louisiana, the grantees in the principal case was bound by them, inasmuch as he had notice, or must be presumed, 'from the official station which he held,' to have had notice, of their terms.

"12th. That the regulations of Morales 'exclude all belief that any law existed under which a confirmation of the title in question could have been claimed.'

"13th. That the complete titles (produced to the court) made by the governor general or the intendant general, though based on incomplete titles, not conformable to the regulations of O'Reilly, Gayoso, or Morales, afford no inference in favor of the power of the lieutenant governor, from whom these incomplete titles emanated, and must be considered as anomalous exercises of power in favor of individual grantees.

"14th. That the language of Morales himself, in the complete titles issued by him, on concessions made by the lieutenant governor of Upper Louisiana, anterior to the date of his regulations, ought not to be referred to as furnishing the construction which he, Morales, put on his own regulations.

"15th. That the uniform practice of the sub-delegates, or lieutenant governor of Upper Louisiana, from the first establishment of that province to the 10th March, 1804, is to be disregarded as proof of law, usage, or custom, therein.

"16th. That the historical fact, that nineteen-twentieths of the titles to lands in Upper Louisiana were not only incomplete, but not conformable to the regulations of O'Reilly, Gayoso, or Morales, at the date of the cession to the United States, affords no inference in favor of the general legality of those titles.

"17th. That the fact, that incomplete concessions, whether floating or located, were, previous to the cession, treated and considered by the Government and population of Louisiana as property, salable, transferable, and the subject of inheritance and distribution *ab intestato*, furnishes no inference in favor of those titles, or to their claim to the protection of the treaty of cession, or of the law of nations.

"18th. That the laws of Congress heretofore passed in favor of incomplete titles, furnish no argument or protecting principle in favor of those

titles of a precisely similar character, which remain unconfirmed.

"In addition to the above, a number of other errors, consequential on those indicated, might be stated. The Judge's doctrine as to the forfeiture which he contends is inflicted by Morales's regulations, seems to me to be peculiarly pregnant with grievous consequences. I shall, however, not tire the reader with any further enumeration, and shall detain him only to observe, by way of conclusion, that the Judge's recollection of the argument of the counsel for the petitioner, as delivered at the bar, differs materially from what I can remember, who also heard it. In justice to the counsel, I beg to observe, that all that I have now submitted to the public, has been suggested by that argument as spoken, and by the printed report of it, which is even now before me. A CITIZEN."

And the said James H. Peck, Judge as aforesaid, unmindful of the solemn duties of his station, and that he held the same, by the constitution of the United States, during good behavior only, with intention wrongfully and unjustly to oppress, imprison, and otherwise injure the said Luke Edward Lawless, under color of law, did, thereafter, at a term of the said District Court of the United States for the District of Missouri, begun and held at the city of St. Louis, in the State of Missouri, on the third Monday in April, one thousand eight hundred and twenty-six, arbitrarily, oppressively, and unjustly, and under the further color and pretence that the said Luke Edward Lawless was answerable to the said court for the said publication signed "A Citizen," as for a contempt thereof, institute, in the said court, before him, the said James H. Peck, Judge as aforesaid, certain proceedings against the said Luke Edward Lawless, in a summary way, by attachment issued for that purpose by the order of the said James H. Peck, as such Judge, against the person of the said Luke Edward Lawless, touching the said pretended contempt, under and by virtue of which said attachment the said Luke Edward Lawless was, on the twenty-first day of April, one thousand eight hundred and twenty-six, arrested, imprisoned, and brought into the said court, before the said Judge, in the custody of the Marshal of the said State; and the said James H. Peck, Judge as aforesaid, did, afterwards, on the same day, under the color and pretences aforesaid, and with the intent aforesaid, in the said court, then and there, unjustly, oppressively, and arbitrarily, order and adjudge that the said Luke Edward Lawless, for the cause aforesaid, should be committed to prison for the period of twenty-four hours, and that he should be suspended from practising as an attorney or counsellor at law in the said District Court for the period of eighteen calendar months from that day, and did then and there further cause the said unjust and oppressive sentence to be carried into execution; and the said Luke Edward Lawless was, under color of the said sentence, and by the order of the said James H. Peck, Judge as aforesaid, thereupon suspended from practising as such attorney or counsellor in the said court for the period aforesaid, and immediately committed to the common prison in the said city of St. Louis, to the great disparagement of public justice, the abuse of judicial authority, and to the subversion of the liberties of the people of the United States.

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter, any further articles, or other accusations or impeachment, against the said James H. Peck, and also of replying to his answers which he shall make unto the article herein preferred against him, and of offering proof to the same, and every part thereof, and to all and every other articles, accusation, or impeachment, which shall be exhibited by them as the case shall require, do demand that the said James H. Peck may be put to answer the misdemeanors herein charged against him, and that such proceedings, examinations, trials, and judgments, may be thereupon had and given, as may be agreeable to law and justice.

The VICE PRESIDENT informed the managers that the Senate would take proper order thereon, of which the House of Representatives should have due notice; and they then withdrew.

On motion by Mr. TAZEWELL, it was

*Resolved*, That the Secretary be directed to issue a summons, in the usual form, to James H. Peck, Judge of the District Court of the United States for the District of Missouri, to answer a certain article of impeachment exhibited against him by the House of Representatives on this day; that the said summons be returnable here on Tuesday next the eleventh instant, and be served by the Sergeant-at-Arms, or some person to be deputed by him, at least three days before the return day thereof; and that the Secretary communicate this resolution to the House of Representatives.

On motion by Mr. TAZEWELL,

The court then adjourned to Tuesday next at 12 o'clock.

FRIDAY, May 7.

*Officers, &c., of the Revolution—Virginia Line.*

The bill for the relief of the officers and soldiers of the Virginia State line in the war of the Revolution was taken up; when

Mr. TYLER said, that he felt it to be his duty briefly to explain to the Senate the grounds on which he rested his support to this bill. He would premise this explanation by stating that Virginia asked nothing of the liberality or the bounty of this Government. He should make no appeal to its gratitude in favor of those whose descendants were interested in the passage of the measure now before the Senate. If they had no claim either in justice or equity; if, in plainer words, they were not entitled to obtain, provided this Government was suable, a decree or judgment in a court of law or equity, for that which is now demanded for them, he desired that the bill might be rejected. The General Assembly of the State, one of whose representatives he was on that floor, had adopted certain resolves upon this subject, not in the character of a supplicant for Congressional bounty, but from a desire to fulfil her engagements solemnly entered into with men who had evinced their fidelity to her and the cause of American independence, by long and

faithful service. That State would scorn to be a suppliant to a Government which has no power to bestow charity, or to exercise a spirit of munificence. He had premised thus much, not only in justice to his State, but to himself.

He then entered into an exposition of the grounds on which the bill rested. The State of Virginia, by sundry legislative resolves, commencing at an early period of the Revolutionary war, had held out inducements to her citizens to enter into the military service. Amongst the most prominent of which was, the promise of land bounties to her officers and soldiers, as well upon the State as continental establishment. She was then the mistress of an extensive region; and if she had continued to retain her sovereignty over it, no murmur of complaint would ever have been uttered against her by those who fought not her battles only, but those of the confederacy. She drew no discrimination between her State and continental troops. None in truth existed. The only difference between them was, a mere difference as to the Government by whom they were to be paid. The service of the State troops was as trying and as perilous as that of the continentals. The same fields were embued with their blood; and when victory perched on the banner of the one, it alighted also on those of the other. In fulfilment of her plighted faith, a resolution was adopted by her legislature, on the 19th of December, 1778, appropriating all the lands lying between Green River, the Cumberland mountain, the North Carolina line, the Tennessee and Ohio Rivers, exclusively to the purpose of satisfying the claims to military bounty; and, in 1781, she added the lands lying south of Tennessee River, and between the Ohio and North Carolina line and the Mississippi. He recited these facts to show distinctly to the Senate that she had ever considered the claims of both her lines as inseparable and undistinguishable—a fact which it was necessary to bear faithfully in mind.

In 1781 she adopted the policy of ceding to the United States her extensive territory northwest of the river Ohio, which had been conquered exclusively by her own arms; and, on the second day of January, passed a resolution authorizing her delegates in Congress to make the cession on certain conditions. Here (Mr. T. said) the difficulty appertaining to this subject had commenced—a difficulty which had heretofore prevented her from doing full and ample justice to her gallant sons. By the resolution authorizing the cession, (he would call it the power of attorney under which her agents acted,) her reservation of lands appertained as well to the benefit of her State as continental troops. This was the only authority with which she ever invested any one, in relation to the lands ceded.

Here Mr. T. read from a copy of the original resolution the following words: "That in case the quantity of good lands on the southeast side of the Ohio, upon the waters of the Cum-

MAY, 1830.]

*Officers, &c., of the Revolution—Virginia Line.*

[SENATE.]

berland River, and between the Green River and the Tennessee River, which have been reserved by law for the Virginia troops upon continental establishment, and upon her own State establishment, should (for the reasons therein stated) prove insufficient for their legal bounties, the deficiency shall be made up to the said troops in good land, to be laid off between the rivers Scioto and the Little Miami, on the north side of the river Ohio," &c., &c. No one will doubt that her agents were bound by their positive letters of instructions; and that if the deed varied in any essential particular from the terms of the authority by which, and by which alone, it was executed, waiving the question whether the deed might not be entirely avoided thereby, a court of equity would correct such variation, and supply all defects. This was the fact in regard to this transaction. The deed assigned recited the whole of the conditions expressed in the resolution, *totidem verbis*, but omitted all mention of the State troops. How could this have arisen? The Legislature of Virginia gave no authority to any one, other than that which he had just mentioned. She had never contemplated a measure of justice for her continentals, which she did not, at the same time, deal out to her State troops. There was but one mode of accounting for it. There must have been an omission, either in the copy recited, or in the recital of the copy. No other rational explanation could be given. He had, in fact, if his memory did not most egregiously deceive him, seen a certificate to that effect, from Mr. Monroe, who assisted in executing the deed. He had not been able, recently, to lay his hand on that document, nor did he esteem it material. The narrative into which he had entered served fully to establish it. In fact, the journals of Congress, of 1783, showed how the mistake had originated. A committee was appointed to consider of the terms of cession, and to report thereon; and they undertook, in their report, to set forth, in the very words of each, the various conditions on which Virginia had proposed to make the cession. The fifth condition was that appertaining to this subject; and in the recital of that, the error was committed which ran into the deed afterwards. That committee had the resolution of the General Assembly before them; and it is not to be credited, for a moment, that they intentionally recited falsely its terms. It is much more creditable and just towards that committee to ascribe the omission to a mere oversight. If he was right in this, it followed that the State troops had a full right to enter upon the reserved lands northwest of the river Ohio, in order to locate their warrants. The lands reserved in Kentucky had proved insufficient, from two causes. First, in running the division line between Kentucky and Tennessee, the territory of Tennessee had encroached considerably on those reserved lands; and, secondly, a portion of that tract of country was inhabited by the Chickasaw tribe of Indians, up to 1819,

when a treaty was negotiated with them; whereupon, Kentucky claimed exclusive jurisdiction over the country, and forbade the location of the military warrants. In the mean time, the State troops were not, and have not, at any time, been permitted to avail themselves of the reservation on the northwest of the river Ohio, and now the permission to do so would come too late.

The continental troops have taken up all the undisputed land, of any value, contained in that reservation; and, by reason of a mistake in running the first boundary line, the United States have sold a large portion of what properly fell within that reservation. Thus it is that many of the State troops have never been satisfied in their just demands. Not by any fault on the part of Virginia, but from accidental circumstances, over which she had no control. There remains now within the reserved territory no lands which would remunerate the labor and expense of location. The Government itself has sold a large portion of them; and, so far as a deficiency is produced from that cause, no one can doubt but that the United States are bound to make it good. But if the reservation, the interposition of this Government apart, had proved deficient, this Government ought to make it good. It paid down no valuable consideration for that extensive domain. It received it as a gratuity. If the reservation had exceeded the demands of the officers and soldiers, all the surplus would have belonged to this Government. Surely the rule should work both ways. If you would take the surplus, if any, you ought to supply the deficiencies, if any.

But these claims rested upon another ground, which he considered equally strong. The contract with the soldier created on his behalf a lien on all the unlocated lands held by Virginia at the time of entering into that contract. The whole northwestern territory was subject to his claim. Virginia could not make void that lien. This Government, therefore, must have been subject to it, since it was prior, in point of time, to the deed of cession. In a court of justice, in a case between individuals, he apprehended that but one judgment could be pronounced in this matter; and he trusted that the Senate would not hesitate in fulfilling the demands of justice. No deep concern need be felt as to the amount of these unsatisfied warrants. He was in possession of a document which enabled him to arrive with something like accuracy at the quantity of land. It was a statement of the Register of the Land Office, from which the warrants had issued, furnished in 1822. There issued to the State troops, prior to the year 1792, warrants, amounting in all to one million one hundred and forty thousand five hundred and eighty-three and two-thirds acres; and between 1792 and 1828, others amounting to thirty-seven thousand four hundred and nine and one-third acres; making in all one million one hundred and seventy-seven thousand nine

hundred and ninety-three acres. Of these, one million thirty-one thousand one hundred and thirty-four and two-thirds acres were located; leaving of unsatisfied warrants, one hundred and forty-six thousand eight hundred and fifty-eight and one-third acres. Some small addition has, no doubt, been made since; but when it is seen that, in thirty years, warrants covering but thirty-seven thousand four hundred and nine and one-third acres have been issued, it may justly be inferred that those which have been issued since are of inconsiderable amount. When it is recollected that the Congress, but two years ago, appropriated one million of acres in aid of the Ohio Canal, and is engaged almost daily in making extensive grants to other objects, he could not persuade himself that it would hesitate to pass this bill, in fulfilment of such a purpose as that which it proposed to accomplish.

Mr. KNIGHT said he rose to obtain information on the subject under consideration, and to ask the Senator from Virginia whether a reservation was made in the deed of cession in favor of the State troops, and whether they were placed on a footing with the Virginia continental troops, in regard to the land or location of the military warrants. He understood no reservation was made in the deed of cession in favor of the State troops. Then why should be given to the State troops of Virginia more than is given to other State troops? Other States had troops who were also found valiantly contending by the side of the continental troops, and who have applied here for aid, in the form of pensions, out of the common fund, and they have been refused. They have been told to go to the States for compensation; that they were State troops, and, therefore, the State must pay them.

Sir, it was stated that a reservation of lands was made for the troops of Virginia, west of the Ohio, between the Miami and Scioto, and that the United States had interposed, and sold a part of the land reserved. It is conceived that the United States could not sell these lands to the prejudice of these claims. If Virginia made the reservation, she will hold them notwithstanding these sales. The Virginia State troops have no right, either in justice or equity, to more than the troops of other States; and if the gentleman would consent to amend the bill, so as to include all the State troops, he would vote for it; but to give these lands to the Virginia troops alone, would be doing more than the Senate had been willing to do for others. Why should be given to the State troops of Virginia that which is held from others?

Sir, it is said that it was intended to have included the reservation for the State troops as well as those on the continental line. Was it so done by the deed of cession? It is not pretended. No, sir, it was not. Did no other States make cessions to this Government but Virginia? Sir, the United States ceded what they had; they ceded revenue, Virginia

ceded lands. The revenue, it is believed, will amount to as much as these lands; and if the revenue be given back, compensation will not be asked for the State troops. We then should be able to reward them ourselves; but to give to Virginia troops alone, is doing more than is required, in my opinion. I have not looked at the deed of cession, nor the conditions on which the cession was made; but I have understood that the continental troops only were provided for by that instrument.

Mr. KANE moved to amend the bill, in the seventh line, by inserting, between the words "any" and "unappropriated" the word "unsettled." (The effect of the amendment was intended to restrict the locations of Virginia land warrants to public lands unappropriated and unsettled; which amendment was agreed to.)

Messrs. NOBLE and HENDRICKS opposed the location of these land warrants in Indiana; not because of any hostility to the principles of the bill—those they did not question—but they objected to their location in Indiana, in consequence of the difficulties which grew out of a former similar bill, for the relief of the "Canadian volunteers." They feared that similar dissatisfaction and confusion would arise under the provisions of the present bill; and would, therefore, move that it be amended by striking out "Indiana."

Mr. KANE then said, that so far from its being an objection to him that any of these locations should be made in his own State, he was decidedly in favor of them. He believed that, in expressing his own sentiments, he did those of his constituents, whose interests would be promoted by emigration to the State.

Mr. BENTON said that the persons who were interested in these claims lived in different States, some of them in Missouri; and he had letters requesting him to get leave to locate in that State. He had no objection to it. He would be willing that the whole quantity should be located in Missouri. It would increase the settlement and cultivation of the State, and augment the number of tax-payers. These were desirable things in a new State. Even a non-resident proprietor was a more profitable landholder to the State than the Federal Government; for such proprietors paid taxes, which the Federal Government did not.

He should make no motion to amend the bill by enlarging the sphere for the location of the warrants; he left it to the Senators from Virginia, who had charge of the bill, to conduct it as they pleased. He would vote for it in any shape, either confined to the territory which Virginia formerly ceded to the Federal Government, or extended to the whole body of the public lands. Upon the United States he conceived the obligation to be the same, to yield land for the satisfaction of the warrants, whether it was requested in one place or in another. To the holders of the warrants, who were now the children and grandchildren of the

MAY, 1880.]

*Reduction of Duties on Tea, Coffee, and Salt.*

[SENATE.]

officers and soldiers of the Revolution, and who were dispersed through many States, it would be more convenient to have leave to locate in other States besides those mentioned in the bill. Doubtless we shall have applications next winter, if the bill passes as drawn, for leave to locate elsewhere, and I shall be for granting it. The only reason that the Senators from Virginia have given for confining the locations to the land which Virginia formerly owned, is the difference between strict right and equity; they contend for a strict right to locate on the old Northwestern Territory; and, on this there seems to be reason; but it is the same to the Federal Government to pay out of any portion of her lands.

Messrs. TAZEWELL and BURNET severally opposed the motion of Mr. HENDRICKS; which, on the question being taken, was rejected.

The bill was ordered to be engrossed by the following vote:

YEAS.—Messrs. Adams, Barnard, Barton, Benton, Bibb, Brown, Burnet, Chase, Clayton, Dickerson, Ellis, Foot, Forsyth, Frelinghuysen, Grundy, Hayne, Holmes, Iredell, Johnston, Kane, King, Livingston, McKinley, McLean, Marks, Naudain, Rowan, Sanford, Seymour, Silsbee, Smith, of South Carolina, Sprague, Tazewell, Troup, Tyler, Webster, White, Wiley, Woodbury—39.

NAYS.—Messrs. Hendricks, Knight, Noble, Rugles—4.

TUESDAY, May 11.

*Tea, Coffee, and Salt.*

The bill "to reduce the duties on coffee, tea, and cocoa," was, on motion by Mr. SILSBEK, considered in Committee of the Whole, with the amendments reported thereto by the Committee on Finance; and the first amendment being in part agreed to,

On the question to agree to the second amendment, as following:

Section 1, line eight, after the word "more," insert, And from and after the thirty-first day of December, 1880, the duty on salt shall be ten cents for every fifty-six pounds and no more—it was rejected, 20 to 26.

[The following remarks of Mr. BENTON in connection with this bill, are all that have been preserved.]

Mr. BENTON commenced his speech, by saying that he was no advocate for unprofitable debate, and had no ambition to add his name to the catalogue of barren orators; but that there were cases in which speaking did good; cases in which moderate abilities produced great results; and he believed the question of repealing the salt tax to be one of those cases. It had certainly been so in England. There the salt tax had been overthrown by the labors of plain men, under circumstances much more unfavorable to their undertaking than exist here. The English salt tax had continued one hundred and fifty years. It was cherished by the ministry to whom it yielded a million and

a half sterling of revenue; it was defended by the domestic salt makers, to whom it gave a monopoly of the home market; it was consecrated by time, having subsisted for five generations; it was fortified by the habits of the people, who were born, and had grown gray, under it; and it was sanctioned by the necessities of the State, which required every resource of rigorous taxation. Yet it was overthrown; and the overthrow was effected by two debates, conducted, not by the orators whose renown has filled the world—not by Sheridan, Burke, Pitt, and Fox—but by plain, business men—Mr. Calcraft, Mr. Curwen, and Mr. Egerton. These patriotic members of the British Parliament commenced the war upon the British salt tax in 1817, and finished it in 1822. They commenced with the omens and auspices all against them, and ended with complete success. They abolished the salt tax *in toto*. They swept it all off, bravely rejecting all compromises when they had got their adversaries half vanquished, and carrying their appeals home to the people, until they had roused a spirit before which the ministry quailed, the monopolizers trembled, the Parliament gave way, and the tax fell. This example is encouraging; it is full of consolation and of hope; it shows what zeal and perseverance can do in a good cause; it shows that the cause of truth and justice is triumphant when its advocates are bold and faithful. It leads to the conviction that the American salt tax will fall as the British tax did, as soon as the people shall see that its continuance is a burden to them, without adequate advantage to the Government, and that its repeal is in their own hands.

The enormous amount of the tax was the first point to which Mr. B. would direct his attention. He said it was near three hundred per cent. upon Liverpool blown, and four hundred per cent. upon alum salt; but as the Liverpool was a very inferior salt, and not much used in the West, he would confine his observations to the salt of Portugal and the West Indies, called by the general name of alum. The import price of this salt was from eight to nine cents a bushel of fifty-six pounds each, and the duty upon that bushel was twenty cents. Here was a tax of upwards of two hundred per cent. Then the merchant had his profit upon the duty as well as the cost of the article; and when it went through the hands of several merchants before it got to the consumer, each had his profit upon it; and whenever this profit amounted to fifty per cent. upon the duty, it was upwards of one hundred per cent. upon the salt. Then, the tariff laws have deprived the consumer of thirty-four pounds in the bushel, by substituting weight for measure, and that weight a false one. The true weight of a measured bushel of alum salt is eighty-four pounds; but the British tariff laws, for the sake of multiplying the bushels, and increasing the products of the tax, substituted weight for measure; and our tariff laws copied after them,

and adopted their standard of fifty-six pounds to the bushel.

[Here General SMITH, of Maryland, rose, and said that he had led the Senator from Missouri into an error, in telling him, some time back, that the weight of alum salt was eighty-four pounds. Subsequent reflection had shown him that it was below eighty.]

Mr. B. resumed his speech. He said, the Senator from Maryland was not so far wrong in his first information as he supposed; that he (Mr. B.) was informed from other sources that Turk's Island salt weighed above eighty pounds; and he had a report before him of a Committee of the British House of Commons, made in 1817, by Mr. Calcraft, the chairman of the committee, in which the weight of the best Bay of Biscay salt is stated at eighty-four pounds. But let us assume the weight at eighty pounds; and at this weight it is incontestable that the tariff laws have been the means of defrauding the consumer of thirty pounds in the bushel. For these laws reduce the bushel to fifty-six pounds; and the retail merchant, and salt manufacturer, improving upon this hint, have made a further reduction of six pounds, and reduced the bushel to fifty. This is a loss of three parts in eight—very nearly one-half—and making the salt cost nearly one hundred per cent. more. Putting all this together—the duty, the merchant's profit upon that duty, and the loss in the bushel—and the duty on alum salt is shown to be near four hundred per cent.; in other words, the tax is four times the value of the article, and makes it cost the consumer four times as much as it would cost him without the tax. This is a cruel oppression upon the people; one which they ought not to bear without necessity, and which there is no necessity, as shall be fully shown, for bearing any longer.

Mr. B. entered into statistical details, to show the aggregate amount of this tax, which he stated to be enormous, and contrary to every principle of taxation, even if taxes were so necessary to justify the taxing of salt. He stated the importation of foreign salt, in 1829, at six millions of bushels, round numbers; the value of seven hundred and fifteen thousand dollars, and the tax at twenty cents a bushel, one million two hundred thousand dollars; the merchant's profit upon that duty at fifty per cent. is six hundred thousand dollars; and the secret or hidden tax, in the shape of false weight for true measure, at the rate of thirty pounds in the bushel, was four hundred and fifty thousand dollars. Here, then, is taxation to the amount of about two millions and a quarter of dollars, upon an article costing seven hundred and fifty thousand dollars, and that article one of prime necessity and universal use, ranking, next after bread, in the catalogue of articles for human subsistence.

The distribution of this enormous tax upon the different sections of the Union, was the next object of Mr. B.'s inquiry; and, for this

purpose, he viewed the Union under three great divisions—the northeast, the south, and the west. To the northeast, and especially to some parts of it, he considered the salt tax to be no burden, but rather a benefit and money-making business. The fishing allowances and bounties produced this effect. In consideration of the salt duty, the curers and exporters of fish are allowed money out of the Treasury, to the amount, as it was intended, of the salt duty paid by them; but it has been proved to be twice as much. The annual allowance is about two hundred and fifty thousand dollars, and the aggregate drawn from the Treasury since the first imposition of the salt duty in 1789, is shown by the Treasury returns to be five millions of dollars. Much of this is drawn by undue means, as is shown by the report of the Secretary of the Treasury, at the commencement of the present session, page eight of the annual report on the finances. The Northeast makes much salt at home, and chiefly by solar evaporation, which fits it for curing fish and provisions. Much of it is proved, by the returns of the salt makers, to be used in the fisheries, while the fisheries are drawing money from the Treasury under the laws which intended to indemnify them for the duty paid on foreign salt. To this section of the Union, then, the salt tax is not felt as a burden.

Let us proceed to the South. In this section there are but few salt works, and no bounties or allowances, as there are no fisheries. The consumers are thrown almost entirely upon the foreign supply, and chiefly use the Liverpool blown. The import price of this is about fifteen cents a bushel; the weight and strength are less than that of alum salt; and the tax falls heavily and directly upon the people, to the whole amount of their consumption. It is a heavy burthen upon the South.

The West is the last section to be viewed, and it will be found to be the true seat of the most oppressive operations of the salt tax. The domestic supply is high in price, deficient in quantity, and altogether unfit for one of the greatest purposes for which salt is there wanted—curing provisions for exportation. A foreign supply is indispensable, and alum salt is the kind used. The import price of this kind, from the West Indies, is nine cents a bushel; from Portugal, eight cents a bushel. At these prices, the West could be supplied with this salt at New Orleans, if the duty was abolished; but, in consequence of the duty, it costs thirty-seven and a half cents per bushel there, being four times the import price of the article, and seventy-five cents per bushel at Louisville and other central parts of the valley of the Mississippi. This enormous price, resolved into its component parts, is thus made up: 1. Eight or nine cents a bushel for the salt. 2. Twenty cents for duty. 3. Eight or ten cents for merchant's profit at New Orleans. 4. Sixteen or seventeen cents for freight to Louisville. 5. Fifteen or twenty cents for the second mer-

MAY, 1830.]

*Reduction of Duties on Tea, Coffee, and Salt.*

[SENATE.]

chant's profit who counts his per centum on his whole outlay. In all, about seventy-five cents for a bushel of fifty pounds, which, if there was no duty, and the tariff regulations of weight for measure abolished, would be bought in New Orleans by the measured bushel of eighty pounds weight, for eight or nine cents, and would be brought up the river, by steamboats, at the rate of thirty-three and a third cents per hundred weight. It thus appears that the salt tax falls heaviest upon the West. It is an error to suppose that the South is the greatest sufferer. The West wants it for every purpose the South does, and two great purposes besides—curing provision for export, and salting stock. The West uses alum salt, and on this the duty is heaviest, because the price is lower, and the weight greater. Twenty cents on salt, which costs eight or nine cents a bushel, is a much heavier duty than on that which costs fifteen cents; and then the deception in the substitution of weight for measure is much greater in alum salt, which weighs so much more than the Liverpool blown. Like the South, the West receives no bounties or allowances on account of the salt duties. This may be fair in the South, where the imported salt is not re-exported upon fish or provisions; but it is unfair in the West, where the exportation of beef, pork, bacon, cheese, and butter, is prodigious, and the foreign salt re-exported upon the whole of it.

Mr. B. then argued, with great warmth, that the provision curers and exporters were entitled to the same bounties and allowances with the exporters of fish. The claims of each rested upon the same principle, and upon the principle of all drawbacks—that of a reimbursement of the duty which was paid on the imported salt when re-exported on fish and provisions. The same principle covers the beef and pork of the farmer, which covers the fish of the fisherman; and such was the law in the beginning. The first act of Congress, in the year 1789, which imposed a duty upon salt, allowed a bounty, in lieu of a drawback, on beef and pork exported, as well as fish. The bounty was the same in each case; it was five cents a quintal on dried fish, five cents a barrel on pickled fish, and five on beef and pork. As the duty on salt was increased, the bounties and allowances were increased also. Fish and salted beef and pork fared alike for the first twenty years. They fared alike till the revival of the salt tax at the commencement of the late war. Then they parted company; bounties and allowances were continued to the fisheries, and dropped on beef and pork; and this has been the case ever since. The exporters of fish are now drawing at the rate of two hundred and fifty thousand dollars per annum, as a reimbursement for their salt tax; while exporters of provisions draw nothing. The aggregate of the fishing bounties and allowances, actually drawn from the Treasury, exceeds five millions of dollars; while the exporters of provisions, who get nothing, would

have been entitled to draw a greater sum; for the export in salted provisions exceeds the value of exported fish.

Mr. B. could not quit this part of his subject, without endeavoring to fix the attention of the Senate upon the provision trade of the West. He took this trade in its largest sense, as including the export trade of beef, pork, bacon, cheese, and butter, to foreign countries, especially the West Indies; the domestic trade to the Lower Mississippi and the Southern States; the neighborhood trade, as supplying the towns in the upper States, the miners in Missouri and the Upper Mississippi, the army and the navy; and the various professions, which, being otherwise employed, did not raise their own provisions. The amount of this trade, in this comprehensive view, was prodigious, and annually increasing, and involving in its current almost the entire population of the West, either as the growers and makers of the provisions, the curers, exporters, or consumers. The amount could scarcely be ascertained. What was exported from New Orleans was shown to be great; but it was only a fraction of the whole trade. He declared it to be entitled to the favorable consideration of Congress, and that the repeal of the salt duty was the greatest favor; if an act of justice ought to come under the name of favor, which could be rendered it, as the salt was necessary in growing the hogs and cattle, as well as in preparing the beef and pork for market. A reduction in the price of salt, next to a reduction in the price of land, was the greatest blessing which the Federal Government could now confer upon the West. Mr. B. referred to the example of England, who favored her provision curers, and permitted them to import alum salt free of duty, for the encouragement of the provision trade, even when her own salt manufacturers were producing an abundant and superfluous supply of common salt. He showed that she did more; that she extended the same relief and encouragement to the Irish; and he read from the British statute book an act of the British Parliament, passed in 1807, entitled "An act to encourage the export of salted beef and pork from Ireland," which allowed a bounty of ten pence sterling on every hundred weight of beef and pork so exported, in consideration of the duty paid on the salt which was used in the curing of it. He stated, that, at a later period, the duty had been entirely repealed, and the Irish, in common with other British subjects, allowed a free trade with all the world, in salt; and then demanded, in the most emphatic manner, if the people of the West could not obtain from the American Congress the justice which the oppressed Irish had procured from a British Parliament, composed of hereditary nobles, and filled with representatives of rotten boroughs, and slavish retainers of the King's ministers. Having shown the enormous amount of the tax, its unequal operation in different sections of the Union, and the superior claims



of the West for its abolition, Mr. B. proceeded to examine the reasons for keeping it up. These grew out of the "American system;" for the duty was no longer wanted for revenue. The plea of revenue was cut off by our own conduct. We had voted, two years ago, to reduce the duties one-half on wines, and were now voting to reduce them to a fraction on coffee, tea, and chocolate. This is proof decisive that the revenue can dispense with a part of the taxes. The objection to the repeal of the salt duty, stands upon the "American system;" and thus this system is presented to the people by its own warm friends and zealous champions, as reducing the moderate duties on Champagne wine and imperial tea, which the rich and luxurious alone use, and leaving the enormous and unequal duties upon salt, without which the farmer cannot raise his stock or cure his provisions; without which the laboring man cannot eat his dinner, nor the beggar boil his greens! Thus this system is presented as favoring the rich and luxurious, oppressing the poor and laborious! But let us examine into it, and see with what justice, and with what conformity to its own declared principles, the "American system" has taken the salt tax under its shelter and protection. The principles of that system, as I understand them, and practise upon them, are to tax, through the custom-house, the foreign rivals of our own essential productions, when, by that taxation, an adequate supply of the same article, as good and as cheap, can be made at home. These were the principles of the system (Mr. B. said) when he was initiated, and, if they had changed since, he had not changed with them; and he apprehended a promulgation of the change would produce a schism amongst its followers. Taking these to be the principles of the system, let the salt tax be brought to its test. In the first place, the domestic manufacture had enjoyed all possible protection. The duty was near three hundred per cent. on Liverpool salt, and four hundred upon alum salt; and to this must be added, so far as relates to all the interior manufactories, the protection arising from transportation, frequently equal to two or three hundred per cent. more. This great and excessive protection has been enjoyed, without interruption, for the last eighteen years, and partially for twenty years longer. This surely is time enough for the trial of a manufacture which requires but little skill or experience to carry it on. Now for the results. Have the domestic manufactories produced an adequate supply for the country? They have not; nor half enough. The production of the last year, (1892,) as shown in the returns of the Secretary of the Treasury, is about five millions of bushels; the importation of foreign salt, for the same period, as shown by the custom-house returns, is five millions nine hundred and forty-five thousand five hundred and forty-seven bushels. This shows the consumption to be eleven millions of bushels, of which five are

domestic. Here the failure in the essential particular of an adequate supply is more than one-half. In the next place, how is it in point of price? Is the domestic article furnished as cheap as the foreign? Far from it, as already shown, and still further, as can be shown. The price of the domestic along the coast of the Atlantic States, varies, at the works, from thirty-seven and a half to fifty cents; in the interior, the usual prices, at the works, are from thirty-three and a third cents to one dollar for the bushel of fifty pounds, which can nearly be put into a half bushel measure. The prices of the foreign salt, at the import cities, as shown in the custom-house returns for 1892, are, for the Liverpool blown, about fifteen cents for the bushel of fifty-six pounds; for Turk's Island and other West India salt, about nine cents; for St. Ubes and other Portugal salt, about eight cents; for Spanish salt, Bay of Biscay and Gibraltar, about seven cents; from the Island of Malta, six cents. Leaving out the Liverpool salt, which is made by boiling, and, therefore, contains slack and bittern, a septic ingredient, which promotes putrefaction, and renders that salt unfit for curing provisions, and which is not used in the West, and the average price of the strong, pure, alum salt, made by solar evaporation, in hot climates, is about eight cents to the bushel. Here, then, is another lamentable failure. Instead of being sold as cheap as the foreign, the domestic salt is from four to twelve times the price of alum salt. The last inquiry is as to the quality of the domestic article. Is it as good as the foreign? This is the most essential application of the test; and here again the failure is decisive. The domestic salt will not cure provisions for exportations, (the little excepted which is made in the Northeast, by solar evaporation,) nor for consumption in the South, nor for long keeping at the army posts, nor for voyages with the navy. For all these purposes it is worthless and useless, and the provisions which are put up in it are lost, or have to be repacked, at a great expense, in alum salt. This fact is well known throughout the West, where too many citizens have paid the penalty of trusting to domestic salt, to be duped or injured by it any longer. In proof of this, Mr. B. read a statement from a citizen of Indiana, Mr. J. G. Read, whose respectability he vouched for, alleging that he had sustained a loss of near three hundred and fifty dollars upon a cargo of three hundred barrels of pork, at New Orleans, in the year 1827, in consequence of putting it up in domestic salt. The pork began to spoil as soon as it arrived in the warm climate of the South. To save it, Mr. Read had to incur the expense of repacking in alum salt—a process, which cost him one dollar and twelve and a half cents on each barrel, besides twelve and a half cents for replacing each hoop that got broke in the operation, and the expense of the drays hauling the pork to and from the place of repacking. Mr. B. said that this was the case with one and all

MAY, 1830.]

*Reduction of Duties on Tea, Coffee, and Salt.*

[SENATE.]

They must repack, in alum salt, at New Orleans, at the same expense that Mr. Read did, or procure that kind of salt beforehand, burdened as it was with duty, and diminished in the bushel by the tariff laws. Surely the West cannot present this picture of imposition to the Congress, and ask in vain for the relief which the Irish, proverbial for oppression, received from the British Parliament. And here he submitted to the Senate, that the American system, without a gross departure from its original principles, could not cover this duty any longer. It has had the full benefit of that system in high duties, imposed, for a long time, on foreign salt; it had not produced an adequate supply for the country, nor half a supply; nor at as cheap a rate, by three hundred or one thousand per cent.; and what it did supply, so far from being equal in quantity, could not even be used as a substitute for the great and important business of the provision trade. The amount of so much of that trade as went to foreign countries, Mr. B. showed to be sixty-six thousand barrels of beef, fifty-four thousand barrels of pork, two millions of pounds of bacon, two millions of pounds of butter, and one million of pounds of cheese; and he considered the supply for the army and navy, and for consumption in the South, to exceed the quantity exported.

Mr. B. examined another ground of claim for the continuance of the duties, founded on the amount of capital which the manufacturers had embarked in the business. They had returned this capital at upwards of three millions of dollars; but when you come to analyze the particulars of this imposing sum, two millions of it are found to be taken up with wooden vats, and their scantling roofs, which are in a state of daily deterioration, and must rot in a few years, whether used or not. Such items could not be counted as capital, unless when new, or nearly so; and it is not to be presumed that any new works have been erected since the problem of paying the public debt has been discussed and solved; and a great reduction of taxes looked to as a consequence of that event. Another portion of the capital was in kettles, also a perishable item, to which the same remark extends as to the wood in vats. A third large item in the estimate of capital is a great number of wells and furnaces, left to stand idle on purpose, in order to make less salt, and demand higher prices for it. Deducting all these items, or so much of each as ought to be deducted, and it would probably turn out that the boasted capital in these works did not exceed the amount of one year's tax upon the people to keep them up. That tax has been shown to be, for 1829, one million two hundred thousand dollars of direct duty; merchant's profit upon that sum, at the rate of fifty per cent.; making six hundred thousand dollars; and four hundred and fifty thousand dollars more for the loss of thirty pounds in every bushel: in all, two millions and a quarter of

dollars. The real capital, in all human probability, does not reach that sum. The capital to be affected by the repeal of the duty cannot be the half of it; for all the interior works—all those in Upper Pennsylvania, in Western Virginia, in Ohio, in Kentucky, Indiana, Illinois, and Missouri, are beyond the reach of foreign salt, except at an advance of from two to three hundred per cent. upon its cost. They are protected without a tariff, by locality, by distance, and by the expense of transporting foreign salt into the fair and legitimate sphere of their supply and consumption. Doubtless it would be better for the consumers to buy all the works, and stop them, than to go on paying the present enormous duty, and its accumulated burdens, to keep them up. But this alternative cannot be necessary. The people cannot be driven to this resort. After reducing the duties on tea, coffee, wines, and chocolate, the duty upon salt must fall. The American system cannot keep it up. It cannot continue to tax the first necessary of life, after untaxing its luxuries. The duty was repealed *in toto*, under the administration of Mr. Jefferson. The probable extinction of the public debt enabled the Government at that time to dispense with certain taxes, and salt took precedence then of tea, coffee, chocolate, and wine. It cannot be necessary here to dilate upon the uses of salt. But, in repealing that duty in England, it was thought worthy of notice that salt was necessary to the health, growth, and fattening of hogs, cattle, sheep, and horses; that it was a preservative of hay and clover, and restored moulded and flooded hay to its good and wholesome state, and made even straw and chaff available as food for cattle. The domestic salt makers need not speak of protection against alum salt. No quantity of duty will keep it out. The people must have it for the provision trade; and the duty upon that kind of salt is a grievous burthen upon them, without being of the least advantage to the salt makers.

Mr. B. said it was an argument in favor of keeping up these duties, that in time of war we should have to depend upon the home supply. He said we had no war at present, nor any prospect of one, and that it was neither wise nor beneficial to anticipate, and inflict upon ourselves beforehand, the calamities of that state. "Sufficient for the day is the evil thereof." When the war comes, we will see about the price of salt; in the mean while, the cheaper we get it now, the higher we shall be able to pay for it then. But he did not admit the argument. The making of salt was a plain and easy business. It required no skill or experience. If a part of the works stop when the price becomes low, they will start again the day it rises. If the whole were stopped now, they would all be in full operation in the first few months of war. Besides many works were stopped now. On the Kenhawa, twenty-four furnaces, capable of making four hundred thousand bushels per annum, are returned by

the owners as idle. On the Holston only one well is worked making five hundred bushels a day, when ten thousand could be made. At many other places a part of the works are stopped, and for the purpose of making a less quantity and getting a higher price. If the owners thus stop their works for their private advantage they must not complain if the interest of the people should require more of them to stop.

Mr. B. said there was no argument which could be used here in favor of continuing this duty which was not used, and used in vain, in England; and many were used there, of much real force, which cannot be used here. The American system, by name, was not impressed into the service of the tax there, but its doctrines were; and he read a part of the report of the committee on salt duties, in 1817, to prove it. It was the statement of the agent of the British salt manufacturers, Mr. William Horne, who was sworn and examined as a witness. He said: "I will commence by referring to the evidence I gave upon the subject of rock salt, in order to establish the presumption of the national importance of the salt trade, arising from the large extent of British capital employed in the trade, and the considerable number of persons dependent upon it for support. I, at the same time, stated that the salt trade was in a very depressed state, and that it continued to fall off. I think it cannot be doubted that the salt trade, in common with all staple British manufactures, is entitled to the protection of Government; and the British manufacturers of salt consider that, in common with other manufactures of this country, they are entitled to such protection, in particular from a competition at home with foreign manufacturers; and, in consequence, they hope to see a prohibitory duty on foreign salt."

Such was the petition of the British manufacturers. They urged the amount of their capital, the depressed state of their business, the number of persons dependent upon it for support, the duty of the Government to protect it, the necessity for a prohibitory duty on foreign salt, and the fact that they were making more than the country could consume. The ministry backed them with a call for the continuance of the revenue, one million five hundred thousand pounds sterling, derived from the salt tax; and with a threat to lay that amount upon something else, if it was taken off of salt. All would not do. Mr. Calcraft, and his friends, appealed to the rights and interests of the people, as overruling considerations in questions of taxation. They denounced the tax itself, as little less than impiety, and an attack upon the goodness and wisdom of God, who had filled the bowels of the earth, and the waves of the sea, with salt for the use and blessing of man, and to whom it was denied, its use clogged and fettered, by odious and abominable taxes. They demanded the whole repeal; and when the ministry and the manufacturers, overpow-

ered by the voice of the people, offered to give up three-fourths of the tax, they bravely resisted the proposition, stood out for total repeal, and carried it.

Mr. B. could not doubt a like result here, and he looked forward, with infinite satisfaction, to the era of a free trade in salt. The first effect of such a trade would be, to reduce the price of alum salt, at the import cities, to eight or nine cents a bushel. The second effect would be, a return to the measured bushel, by getting rid of the tariff regulation, which substituted weight for measure, and reduced eighty-four pounds to fifty. The third effect would be, to establish a great trade, carried on by barter, between the inhabitants of the United States and the people of the countries which produce alum salt, to the infinite advantage and comfort of both parties. He examined the operation of this barter at New Orleans. He said, this pure and superior salt, made entirely by solar evaporation, came from countries which were deficient in the articles of food, in which the West abounded. It came from the West Indies, from the coasts of Spain and Portugal, and from places in the Mediterranean; all of which are at this time consumers of American provisions, and take from us beef, pork, bacon, rice, corn, corn meal, flour, potatoes, &c. Their salt costs them almost nothing. It is made on the sea beach by the power of the sun, with little care and aid from man. It is brought to the United States as ballast, costing nothing for the transportation across the sea. The duty alone prevents it from coming to the United States in the most unbounded quantity. Remove the duty, and the trade would be prodigious. A bushel of corn is worth more than a sack of salt to the half-starved people to whom the sea and the sun give as much of this salt as they will rake up and pack away. The levee at New Orleans would be covered—the warehouses would be crammed with salt; the barter trade would become extensive and universal; a bushel of corn, or of potatoes, a few pounds of butter, or a few pounds of beef or pork, would purchase a sack of salt; the steamboats would bring it up for a trifle; and all the upper States of the Great Valley, where salt is so scarce, so dear, and so indispensable for rearing stock and curing provisions, in addition to all its obvious uses, would be cheaply and abundantly supplied with that article. Mr. B. concluded with saying, that, next to the reduction of the price of public lands, and the free use of the earth for labor and cultivation, he considered the abolition of the salt tax, and a free trade in foreign salt, as the greatest blessing which the Federal Government could now bestow upon the people of the West.

The remaining amendments reported by the committee being agreed to, the bill was further amended; and, the amendments being concurred in, were ordered to be engrossed, and the bill read a third time, as amended.

MAY, 1890.]

*Maysville and Lexington (Ken.) Turnpike Road.*

[SENATE.]

*Impeachment of James H. Peck.*

At 12 o'clock the Senate resolved itself into a High Court of Impeachment.

Mr. SMITH, of Maryland, and Mr. CHAMBERS, who were absent on the organization of the court, being present, the VICE PRESIDENT administered the usual oath to them.

The Sergeant-at-Arms was then directed to make proclamation in the usual form, to keep silence; after which,

The Sergeant-at-Arms returned the writ of summons, with his proceedings thereon; that is, he had served the same on James H. Peck, on Thursday last, in the city of Baltimore, and had left with him a copy thereof; to the truth of which he was sworn by the Secretary.

Proclamation was then made that James H. Peck appear and answer the article of impeachment, and he accordingly appeared, attended by Mr. Wirt, as his counsel; and being seated within the bar,

The VICE PRESIDENT informed Judge Peck that the court was ready to receive his answer.

JUDGE PECK rose, and addressed the Senate as follows:

Mr. PRESIDENT: I appear, in obedience to a summons from this honorable Court, to answer an article of impeachment exhibited against me by the honorable the House of Representatives; and I have a motion to make, which I request may be done by my counsel.

The VICE PRESIDENT having signified the willingness of the Court to receive the motion,

Mr. WIRT rose, and, having read reasons therefor, submitted the following motion in behalf of Judge Peck:

1. That a reasonable time may be allowed me to prepare my answer and plea; and, for this purpose, I ask until the 25th day of the present month.

2. That, after my answer and plea shall be filed, process for witnesses may be awarded to me, and a reasonable time may be allowed to collect my witnesses and proofs from the State of Missouri.

Mr. WEBSTER then submitted the following order:

*Ordered,* That James H. Peck file his answer and plea with the Secretary of the Senate, to the article of impeachment exhibited against him by the House of Representatives, on or before the second Monday of the next session of Congress.

*Ordered,* That the Secretary notify the foregoing order to the House of Representatives, and to James H. Peck.

Mr. BIBB moved to amend the order, by striking out the "second Monday of the next session of Congress," and inserting the 25th day of the present month, which was agreed to; and the order was then made as amended.

On motion by Mr. CHAMBERS, the Court adjourned to meet on Tuesday, the 25th instant, at 12 o'clock.

*Maysville and Lexington (Kentucky) Turnpike Road.*

[On the 18th, 14th, and 15th of May, there was much business done in Senate, and a number of bills were passed. Among other bills under consideration was that authorizing a subscription of stock in the Maysville, Washington, Paris, and Lexington Turnpike road. The publishers have, in their possession, only the following remarks by Mr. TYLER.]

Mr. T. stated that he did not rise to enter into a constitutional argument on the bill now under consideration. He should wait for more favorable auspices before he ventured to detain the Senate by such an argument. The period might be near at hand, when the principles of the constitution would once more be invoked, and the true democratic party be called upon to rally around the standard which was unfurled in times long since gone by. Whenever the day should arrive in which the country would be so far relieved from the unhappy spell in which it had been bound, as to listen with attention to an exposition of this subject, on constitutional grounds, he would not be wanting in his duty. I was (said Mr. T.) in that Congress which was the first to enter gravely into the discussion of the constitutional power of this Government to make roads and canals. I then attentively weighed all that was urged by the advocates of the system—if system that may be called, which is none—and my decision was against them. Every subsequent reflection has confirmed the opinion then expressed; and the experience of the last six years has satisfied me, that, in its exercise, all that is dear and should be considered sacred in our institutions is put to hazard. Experience is the parent of true wisdom, and the lights which she has furnished upon this subject ought to be bright enough to conduct our footsteps back to the path from which we have strayed. Can any man say in what this system is to end? Formerly, it was held to be national. I have no such word in my political vocabulary. A nation of twenty-four nations, is an idea which I cannot realize. A confederacy may embrace many nations; but by what process twenty-four can be converted into one, I am still to learn. Yes, sir, formerly it was contended that the road-making powers could only be exerted over national objects, but now it is gravely contended that every thing is national, and that the bounty of this Government may be exerted in aiding to construct a road but sixty miles long. And what do we hear? Why, that the stock thus taken up by the Government is destined, in the end, to yield a handsome dividend; that this road runs through the most fertile district of country in the world, and is the great thoroughfare through the State of Kentucky. Let me remark, that it is by no means the least surprising circumstance connected with it, that, when its advantages are so decidedly great, and the promised dividend on

the stock so large, the State of Kentucky itself, if its citizens are reluctant to subscribe, should not take up the stock. Why permit this Government already possessed of such abundant sources of revenue, to engross this also? Why suffer it, from this time, and forever, to levy a tax for the benefit of other portions of the confederacy on the good people of Kentucky? Let the truth be spoken. The benefits of the contemplated subscription are destined to arise to certain individuals, who have been incorporated by the Legislature of that State to construct this road. Their fortunes are to be advanced, and they are earnestly urging us to aid them in this enterprise. Now, sir, I desire Senators to reflect upon the consequences of passing this bill. In all our legislation we should act upon an enlarged principle—the principle of equal justice. If we subscribe to this undertaking, where shall we stop? What company shall we deny, or what work shall we refuse to aid? Will you aid all the works of equal extent—every road of sixty miles in length? If we do not, shall we not be justly chargeable with injustice? But, sir, upon what principle is it that we shall limit our subscriptions to roads of precisely the same extent with this? Why not, if they shall fall a little short of this? I ask of gentlemen to show me the limit of their principle. Pass this bill, (said Mr. T.,) and no man can set bounds to the applications which will be made to us at the next session. We shall have a perfect jumble of all manner of schemes and plans; national and local; public and private; in lawyer's phrase, a perfect hotchpotch. Can any Government bear such an operation? Can any community exist in peace under such a system? It will terminate precisely as has done another magnificent scheme. Four or five years ago, our ingenious politicians found the power in the constitution to improve harbors, and to make our rivers navigable. They began with roadsteads for the navy; and in what has it terminated? Let our observation this session illustrate. We have got now to surveying creeks which have not water enough to keep at work a common grist mill. The appropriation made but the other day, for the survey of Mousen River, in the State of Maine, in the very face, too, of an explanation of its actual condition, made by the Chairman of the Committee of Commerce, has left me no room to hope that any opposition to the bill now under consideration will be successful. It is, nevertheless, my duty, as a member of the committee who reported this bill, to state to the Senate the objections which I have to it. When the subject was before the committee, it was attempted to show that it was but the part of a scheme, more enlarged and more extensive. It was said to be but a link in a great road hereafter to be finished by this Government from Zanesville, in Ohio, to a point opposite to Maysville, on the Ohio River; and from Lexington to Nashville; and from thence on to Florence, in Alabama. On this ground, it

claimed nationality of character. The chain was broken by the interposition of the Ohio River; and what was to be done to supply it, I do not know. A bridge would scarcely have been thought of, and a ferry, founded by authority of this Government, might subject to too severe a test this road-making power. Now, sir, it is the easiest thing imaginable to make a road a national road. Every road in the country readily becomes so. Each is connected with every other, whether by a straight line or otherwise, is not material. The angle at which the county road passing by my door intersects the principal road leading from this city to Richmond, and from thence to Huntsville, in Alabama, whether it be a right angle or an acute angle, must be wholly immaterial. It is a part of a national road, and is immediately connected with every other road in the United States. If this Maysville road rested on a pivot, and could be turned round from its present posture of east and west, to north and south, it would be still as much a national road as it now is. The only difference would be, that it would lead to other States and to other cities. Here, then, is the termination of this stupendous national scheme—this great American system of road-making and canal-digging—this system, in support of which the constitution was carefully scanned through all its provisions. Here is exhibited the rightful exercise of this power under the authority to raise an army, and, *ex vi termini*, to construct a permanent road for military purposes. Here the great power of regulating commerce, not in truth by making rules or regulations by which it shall be carried on between the States, but by affording facilities in travelling from Maysville to Lexington, a distance of sixty miles. Splendid and magnificent, truly, has this great American system become, now that this Government is set down by the side of some few of the citizens of Maron, Bourbon, and Fayette counties, to deliberate upon the important questions which must arise in the construction of this road, whether there shall be a cart-load of sand or gravel, more or less, deposited on this spot or on that.

It has pleased one gentleman in this debate to indulge in certain remarks relative to the condition in which Virginia is placed from its want of good roads; and he has been pleased to denounce our prejudices, as he has thought proper to call them. I have but one reply to make to the Senator, and it is, that we as little desire his sympathies as we deserve his denunciation. If we are content with our situation, surely no one else has any right to complain of it. The Senator might have drawn very different conclusions in reference to us, from the very facts which he has stated. Sir, I will not deny that my native State would be greatly benefited by the application of governmental resources to its improvement. No State in this confederacy requires the expenditure of larger sums of money to objects of internal improvement;

MAY, 1850.]

*Maysville and Lexington (Kew.) Turnpike Road.*

[SENATE.]

and none would be more benefited by such application. When then we stand aloof from this system; when we close our ears to the syren voice which has won so many others to the support of these measures, what is the true attitude in which we stand before the world? Can we be charged with interested or selfish designs or feelings? If we were actuated by any such, we should reach forth our hands, and gather this golden fruit. Instead of this, we give no vote for those measures, even which appertain to our immediate benefit; against the appropriation in aid of the Dismal Swamp canal, the Senators of Virginia on this floor have uniformly voted. No, sir, we will never consent to sacrifice the constitution of this land to a mere ephemeral policy. Pleasure has ever more been represented by poets and by painters as clothed in perpetual smiles, and adorned with the richest jewels; and in real life, we have known many who, allured by her deceptions, blandishments, and hollow but showy temptations, have followed as she pointed, until ruin has befallen them. So will it be with us as a confederated republic. These are the feelings and sentiments of those whom I represent on this floor. Unmoved by the whispering of a seductive policy, Virginia can only regard that course of governmental action as sound, which falls clearly within the pale of the constitution. Think you, sir, that we were more insensible than others to the advantages of good roads and canals? Not so, (said Mr. T.,) let them be made out of the proper treasury—that of each State; and they will find in no quarter a more devoted advocate than myself. But when the interposition of this Government is invoked, and the high reward which an exuberant Treasury offers, is held out, I say nay to the exercise of the power. It is in vain that gentlemen represent to me the benefits of the system. It is in vain that I am told of its being a harmless policy. Show me the grant in the constitution in plain terms, not extorted by a forced interpretation, and not until then will I listen to you. In my youth, I remember to have read in that wisest of all wise books, if the moral be well observed, I mean, *Æsop*, the fable of the cock and the fox; and as it serves to illustrate my feelings and views on this particular subject, I beg leave to repeat it as well as my memory enables me to do it. A fox, in search of prey, passed by the door of a hen roost, and, finding the door locked, resolved to try his skill in obtaining admission. He resorted to an expedient, sir, which so often proves successful in the affairs of the world, that of flattery and hypocrisy united. His salutation was friendly and courteous. He expressed his great concern at having heard that the cock had been indisposed. The cock assured him that his health was perfectly good, and much the better from the circumstance of Mr. fox being on the outside of the door, and the door being locked. The fox pretended not to credit this, and desired permission to see him, so that

he might bear testimony to the fact from ocular demonstration; and such was his great anxiety to look in upon him, that he urged the very humblest request of being only permitted to get his nose in at the door. The cock very wisely refused this permission, declaring to him at the same time, that, if he permitted him to get his nose in, his whole body would soon follow. Such were my feelings when this road-making power was first claimed for this Government. But, sir, it was vain that Virginia protested against it. Vain that she urged upon others the moral of the fable which I have just recited. The good and true State, North Carolina, reasoned as did Virginia; but all in vain. This harmless and beneficent power was yielded; and what has followed, let the whole South testify. She can bear witness throughout all her borders; measure after measure has followed; until powers as supreme and as universal are claimed for this Government, as if the parchment upon your table had never been executed. The internal policy of the States prescribed, the industry of the country regulated, and all the mere charities of life exercised as fully by this Government as by an imperial monarch. The States sinking every day with accelerated velocity into the condition of mere provinces; and a great national Government to grow out of the ruins of the confederacy. Can the people of these States be reconciled to this? Or, will they continue supine, until the whole fabric of the Government is changed? Sir, does any one believe that we can exist under a consolidated National Government? Look to the present condition of things, and the question is answered. I ask every member of this House, whether it could have been conceived, that, when this American system was entered upon, the results which are now constantly transpiring would have arisen. What scenes are exhibited on the legislative floor under the influence of the feelings of local interest? I do but glance at them, and will not dwell upon them. When were sectional lines ever before so strongly drawn? But I forbear, sir, I forbear. Let those who believe that a National Government will best suit our condition, turn to the map, and their doubts will be solved. A country embracing so great an extent of territory—possessing such a diversity of interests; one extremity congealed by the frosts of an almost perpetual winter, the other parched by almost tropical suns. Can a National Legislature know the interests of these extremes, feel their wants, or advance their wishes? It is in vain to disguise it; a central Government here, call it by what name you please, which shall attempt to legislate for local interests, is an open and manifest despotism. Ingenuity is tortured to bring this Government to this. The first fruits are bitter enough; combinations have arisen, and combination will follow combination, to the end of the chapter. The South now suffers, and anon it will be the turn of the North and of the West. Suppose

that all Europe existed under a consolidated Government, each State being degraded to the condition of a mere principality, what scenes would not be exhibited, and how tremendous a tyranny would be created, wielded not by a single man, but by stern, inflexible, immovable majorities? Russia, Prussia, Sweden, and Denmark, uniting with Austria, would evermore wage a war of plunder against France and the southern provinces. The more fertile the country, and more genial the climate, the greater temptation to combine against it with a view to legislative plunder. Who can doubt this? And yet the States of this Union are not differently circumstanced. A National Government, acting here through the instrumentality of law, in other words, in obedience to an underleague of interests, will operate as forcibly and as fatally. The gentleman has in these considerations the true foundation of our prejudices, if so they are to be called. We opposed ourselves to every strained construction of the constitution, under the knowledge that the concession of one power, however slight, leads to the claim of another, and another, until all will be gone.

It has become customary, of late years, to ridicule the Virginia doctrines, as they are called. That State which has stood by this Union, through good and through evil report, is sneered at and reviled. So was it in former times. Under the first Adams she was declared rebellious and factious; and it was said that her republicans should be trampled into dust and ashes. She, nevertheless, with Kentucky, raised her voice against the infractions of the constitution. She does the same now. And what were the infractions against which she then protested, in comparison with those against which she now protests? Bad enough they were, it is true. But the art of construing the constitution, and the efforts to make it a nose of wax, was then but barely commenced. The sedition law was passed, and thereby the principle of force was resorted to. Now, sir, a more insidious, and a more dangerous principle is brought into action. Money is now relied upon; cupidity—avarice, are the infernal agents now invoked. These are the fatal sisters who weave the web of our destiny; and, if we do not destroy that web before we come to be more fully entangled, if we permit first an arm and then a leg to be tied up, there will be left to us no means of escape. Let us now begin the effort, and, by drawing back this Government to its legitimate orbit, save our institutions from destruction. My untiring efforts shall not be wanting in so holy a cause. But if we surrender ourselves into the hands of ingenious politicians, those aspirants for high office who seek evermore to enlist in their support the strongest passions of human nature, with a view to their individual aggrandizement, the ark of the covenant will be destroyed, and the temple rent in twain. Let us expel the money changers from that temple, and introduce the only true worship. In this way only,

I am fully satisfied, can we preserve the Union of these States, and secure their unceasing happiness.

The Senate is indebted for these remarks to the gratuitous attack which has been made upon Virginia in this debate. They have been as unpremeditated as that attack was unexpected; but I could not forego the opportunity thus afforded me of expressing my feelings.

[The bill, as it is known, passed the Senate.]

SATURDAY, May 22.

*Baltimore and Ohio Railroad.*

The bill authorizing a subscription to the stock of the Baltimore and Ohio Railroad Company, was taken up as unfinished business.

Mr. GRUNDY said he would like to know the price which the stock of that company would command in market; and, previous to his voting on the subject, he would make an inquiry to that effect of the Senators from Maryland.

Mr. SMITH, of Maryland, said he did not know that he could give the gentleman from Tennessee a satisfactory answer to his query. The stock was now at par, but if forced into the market, he did not, and could not, with any degree of certainty, say what it would sell for. The company was certain of success. It was calculated that the annual proceeds would amount to eighty thousand dollars; but, from the most moderate and reasonable calculation, it would produce an annual income of forty thousand dollars, which must be divided among the stockholders.

An amendment having been proposed by Mr. LIVINGSTON, which required that the funds to meet the subscription on the part of the United States should be drawn from the sales of other stocks invested in works of similar character, Mr. L. urged the propriety and necessity of such a course, in a speech of great force and eloquence. He said that the numerous and heavy calls on the Government for aid in works of internal improvement, in different sections of the country, admonished him that nothing could save the system of internal improvement from destruction, but the adoption of some such measure as that which he had proposed. When the applications, now before Congress, for aid in the execution of works of internal improvement, were contemplated, and the amount of money which they would require enumerated, and viewed in connection with the numerous claimants who are now calling upon the country for debts which were justly due them, he saw no alternative left but the adoption of this measure. The Treasury of the Union would otherwise prove utterly inadequate to meet the calls of the different companies engaged in works of internal improvement, most of which had equal claims on the aid of the Government to carry their design into effect. Unless this system was adopted, and the funds of the General Government

MAY, 1880.]

*Baltimore and Ohio Railroad.*

[SENATE.]

transferred from the one to the other, as soon as the works in which they were invested shall have been completed and in full operation, the best friends of internal improvements would be forced to abandon them, and the whole system would fall into disrepute. He was one of the most devoted friends of the system, and it was therefore that he took this means of endeavoring to preserve it.

Mr. WEBSTER said he agreed with the Senator from Louisiana, in the principles laid down in his amendment heretofore offered to this bill. He thought that the funds of the General Government in works of internal improvement ought to be a circulating fund, to be applied as circumstances might demand, for the purpose of encouraging and promoting those works in different sections of the country; and when the works have been effected, the stock should be sold out, and again applied to the encouragement of similar works. But he thought that the disposal of these stocks required the exercise of great prudence and discretion; because, if the market was glutted with funds of this character, it would produce depreciation in the price of these stocks, at once injurious to the Government and the other stockholders.

Mr. CHAMBERS said he had already expressed to the Senate his views of the merits of the bill, as also the reasons why its passage should not be delayed; and he rose at this time to make a few remarks exclusively on the amendment now proposed. He did not mean to oppose the principle which the amendment assumed, of returning to the Government the sums which might be advanced to promote various schemes of internal improvement. He did not suppose the idea had anywhere been entertained, that the Government was to remain permanently a stockholder in the numerous corporations to which, from time to time, it had contributed, or should hereafter contribute aid. At a proper period, and under a judicious system, he thought it was fit that the capital, so often necessary to bring into existence an improvement highly useful in itself, and which, in its incipient state, might fail without our patronage, should be re-occupied, after its purpose was accomplished, and re-invested in some other improvement, equally useful, and equally requiring aid. In these general views, he concurred with the Senator from Louisiana; and if he would lay a foundation for this system, by procuring such information of the value and peculiar character of the various items of our property thus engaged, he would unite in adopting and protecting it. But was it wise to begin at the point whence the Senator proposed to start his project? Could we be asked first to offer our property in the market, and afterwards inform ourselves of its value? The question asked by the Senator from Tennessee, (Mr. GRUNDY,) and the answer of his colleague, (Gen. SMITH,) fully illustrated this matter. Neither of these Senators knew any thing of the value of the stock of the Ohio Canal; and

probably every other Senator on this floor was as uninformed on the subject. The same remark would, no doubt, apply to nearly all stocks of the kind owned by the Government. The time had not yet arrived when these various works of internal improvement had been prosecuted to an extent to give them the value they must ultimately command, as articles of sale; nor could it be otherwise. It was only at a comparatively late period that the finances and engagements of the Government had placed in its control the pecuniary means of aiding in the accomplishment of great national improvements, involving more expenditure than individual wealth could furnish. The character and nature of these operations necessarily made the day of return too distant from the day of expenditure, to justify the expectation of their being now in a state of maturity, either to prove the actual value of the investment, or to command that value if offered for sale. The most striking evidence of this truth is to be found in the history of one of these improvements, which had been alluded to in debate a few days ago. It was then said, the stock in the Chesapeake and Delaware Canal was worth, in the market, one hundred and eighty-seven dollars per share, on which two hundred dollars had been paid. Now (said Mr. C.) it is a matter within my personal knowledge, that, five or six years ago, shares in this Canal Company, on which one hundred dollars had been paid, were sold for twenty dollars; and at a period very shortly prior to the commencement of its operations, the price was merely nominal, and it could not, probably, have been sold at a discount of twenty-five per cent., or perhaps fifty. It had scarcely commenced its operations, impeded as it is with difficulties, for the removal of some of which you have, within a few days, provided, and it already yields, we are told, a fair interest on the capital, and a price less only by five or six per cent. than par. To construct an immense canal or railroad is a work of much time, and while in progress it is necessarily unproductive. Few individuals have the ability to invest their funds in an enterprise which places them for so long a period out of active circulation, let the ultimate prospect of profit be what it may. But, whenever the enterprise is so far completed as to return a prompt and punctual interest or dividend, it becomes at once a salable property. The various improvements to which the Government has contributed its aid, are not advanced to this state of maturity, and, least of all, the Ohio and Chesapeake Canal, the one indicated by the Senator from Louisiana, (Mr. LIVINGSTON.)

These considerations had convinced him that this was not the period at which our stocks could be sold to advantage. He believed no prudent individual, owning such property, would, under such circumstances, think of selling it; being himself uninformed of its amount, its probable future value, its present current price, and the contingencies on which de-



pended the period and the degree of its increase in value.

But (said Mr. C.) the amendment is still more objectionable on other grounds. This system of internal improvement can only be sustained by a fair and equal distribution of the favor and assistance of the Government, in the proportion which the several objects may bear to the great interests of the country. The friends of this bill present to your notice an object of vast importance in its relations to the Government, as well as to an immense mass of individuals, and to many of the States. No scheme so grand, none of so great practical benefits, in a season of war or in years of peace, has ever suggested itself as practicable since the days of the "Father of his country," who first suggested this mode of connecting the Western waters with the Atlantic by an interior communication; and yet to the bill granting to this object the comparatively small contribution of two hundred and seventy-five thousand dollars, in the way of subscription to its stock, it is proposed to annex a limitation, a condition, a restraint, which has never before been annexed to any, the least of all your improvements. The Senator who offers this provision, says he is a friend to this bill. He is, certainly, a firm and well-known friend to fair and equal justice. Now I put to him (said Mr. C.) and to the Senate, the question, whether it be fair and equal justice to impose on this grant a condition or restraint which has never been imposed on any similar grant to others, either at a former session of Congress or during the present. We have for years past bestowed our patronage on works of internal improvement; the beneficent arm of the Government has been extended to sustain and cherish these objects in various sections of the Union, and often when no other power could have preserved them from destruction; but to all we have given our aid without this condition or restraint. During the six months to which the present session has extended, we have again exerted this beneficent power of the Government; and in one case—the Maysville and Lexington road—of a character so doubtful in the view of some gentlemen, that the President of the United States is said to hesitate whether he will approve of the act of the two Houses of Congress; yet we have seen no condition or restraint imposed or attempted. Then, why, he again asked, why select this bill, and make it the victim of this new conception, never before suggested or even thought of as a rider to such a bill. The grant asked for is moderate in amount; estimating it by the object to be effected, the bill asks that it may be made on the terms on which all others, without exception, have obtained it. The demand then is for equal and exact justice. If the object is not meritorious, give nothing. But if the object be such as deserves your countenance and assistance, (and the amendment assumes this to be the case,) surely you cannot gratify this reasonable demand for equal and exact justice,

by qualifying this grant with conditions and restraints never before imposed. In all other cases a free and full authority has been given to your disbursing officer to pay from the Treasury the amount subscribed; and it is not fair, it is not equal, it is not just, to restrain him, in respect to this particular case, to the proceeds of stock to be sold. What particular stock, we know not; where to be sold, we know not; and at what sacrifice it will be sold, we know not.

Sir, (said Mr. C.,) the Senator from Massachusetts, (Mr. WEBSTER,) has suggested the propriety of preparing for the introduction of a system of selling our stocks, by asking information to be furnished at the next session. The only possible exception to it which could be urged by gentlemen who advocated this amendment, was the delay in bringing the system into actual execution. To remedy this objection, and to gratify the wishes of those who were anxious for its immediate commencement, he would suggest a perfectly practicable mode of effecting their object. Let a resolution be now submitted, directing that the Secretary of the Treasury shall sell our stocks at such periods, in such parcels, and on such terms, as in his judgment, or in the judgment of the Executive officer of the nation, will best promote the interest of the country. This will at once, instantly, create the system, and the sales will be made as soon as a due regard to the public interest shall furnish, which he supposed was as soon as any one desired. But this, he contended, should be a substantive and separate legislative act. There is no more propriety in its being connected with this railroad bill, than the Maysville bill, the Louisville and Portland Canal bill, the Chesapeake and Delaware Canal bill, or even the light-house bill, or, in truth, any other bill. Those had been discussed, and decided on the abstract merits of their respective claims, on considerations arising out of their connection with the great interests of the nation, their practicability, their general utility, their cost, and the amount asked for. The friends of this bill are content to place their claim to your notice upon these considerations, and will fearlessly and confidently abide the result of such an issue. But in their name, in the name of fair and equal justice, he protested against uniting with these considerations, others growing out of a new and undigested system, touching a general policy of the Government, and in relation to a large amount of its funds having no affinity to this subject, a policy now started, for the first time, when less than ten days remain of a session of six months.

Mr. GRUNDY said, the amendment of the gentleman from Louisiana had produced some difficulty. He could not agree with the gentleman from Maryland, (Mr. CHAMBERS,) nor concur in the force of his reasoning against the propriety of attaching the amendment to the bill at present under consideration. If the principle be a correct one, that the fund applied to the en-

MAY, 1880.]

*Impeachment of Judge Peck.*

[SENATE.]

couragement of internal improvement ought to be transferable or circulating, he saw no good reason why this bill should not be selected as the foundation on which this system shall be commenced. He went into an examination of the different stocks which the Government had invested in works of this character, the price of the stock of the great canal in the State of New York, and the depreciation it had undergone in value since that work went into operation, the demands that were now pressing upon our Treasury, from the extensive appropriation bills that had passed already, besides the numerous applicants that were calling upon the country for their just claims. He thought the nation ought to pay its just debts before it enters into further speculations and appropriations of money, that it was not known what would remain in the Treasury. If a transfer of the stock from the Chesapeake and Ohio Canal Company would answer the purpose, he would make no objection; but if the money for this project was to be drawn from the Treasury, he would vote against it.

Mr. LIVINGSTON said, that he rose to exonerate himself from the charge of hostility to the bill, made by the Senator from Maryland, (Mr. CHAMBERS.) He seemed to think it a great hardship that this bill should be selected as the base on which this system is to be founded. Now he could not see what difference it would make to that company, whether the General Government paid for the stock out of the Treasury of the Union, or by a transfer of the sales of other stocks, invested in similar projects. The gentleman from Maryland must have been led into this error, from supposing that the Secretary of the Treasury was only authorized to make the subscription, in the event of his being able to dispose of other stocks at par: but this is not the fact. The Secretary of the Treasury is required to sell that stock which would command the highest price in market, and prove most conducive to the public good. He would tell the gentleman from Maryland why he was led to the introduction of the amendment to this bill. It was from a careful examination and enumeration of the different applications that are now before Congress for similar investments of stocks: they extended to a most alarming amount; and if the Government were to go on subscribing to these stocks, all recommended and supported by the same principles, the Treasury would be utterly unable to meet the demands that should thus be created. The whole system would be rendered unpopular, and its warmest friends would be reluctantly compelled to abandon it. He, for one, would be forced to abandon it, if this plan of appropriating the public money to every work of internal improvement that may be presented to Congress, were persevered in. It was, therefore, because he was anxious that the system of internal improvement should prosper, that he introduced the amendment, believing that it was the only mode left to save it from ruin.

Mr. McKINLEY moved that the bill be laid on the table, which was agreed to, yeas 21, nays 19, as follows:

YEAS.—Messrs. Adams, Benton, Bibb, Brown, Dickerson, Dudley, Forsyth, Grundy, Hayne, Iredell, Kane, King, McKinley, Ellis, Sanford, Smith of South Carolina, Sprague, Troup, Tyler, White, Woodbury—21.

NAYS.—Messrs. Barton, Bell, Burnet, Chambers, Chase, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Livingston, Marks, Naudain, Robbins, Ruggles, Silsbee, Smith of Maryland, Webster—19.

TUESDAY, May 25.

*Impeachment of Judge Peck.*

Seats having been arranged on the right and left of the Chair, for the accommodation of the Senators, and their seats assigned to the managers and members of the House of Representatives, and the accused and his counsel,

At the hour of 12 o'clock, the Court was opened by proclamation in the usual form.

On motion by Mr. WEBSTER, it was

*Ordered*, That the Secretary give notice to the House of Representatives that the Senate are now in their chamber, and are ready to proceed on the trial of the impeachment of James H. Peck, Judge of the District Court of the United States for the District of Missouri; and that seats are provided for the accommodation of the members of the House of Representatives.

Judge Peck then appeared, accompanied by Mr. Wirt and Mr. Meredith as his counsel, and occupied seats assigned them to the right of the Chair; a short time after,

The managers and members of the House of Representatives appeared, and took the seats usually occupied by the Senate.

The VICE PRESIDENT then asked Judge Peck whether he was prepared to answer the article of impeachment exhibited against him.

Judge Peck replied, that his answer and plea were prepared, and desired that they might be read by his counsel.

The VICE PRESIDENT asked Judge Peck whether the answer now to be made was to be considered as his final answer; and the Judge having answered in the affirmative, the counsel was directed to proceed to read it.

Mr. Meredith read the answer, (which occupied upwards of two hours,) concluding with the general plea of "not guilty."

Mr. STORES, in behalf of the managers, moved That they have time to consult the House of Representatives on a replication, and that they be furnished with a copy of the answer of the respondent; which was agreed to.

On motion by Mr. WEBSTER, it was

*Ordered*, That when this Court adjourn, it adjourn to meet again on the second Monday of the next session of Congress, at 12 o'clock, then to proceed with the said impeachment.

Mr. Wirt desired to know whether blank

SENATE.]

Close of the Session.

[MAY, 1890.]

summons as for the attendance of witnesses would be allowed to the respondent.

The VICE PRESIDENT replied that they would.

The Court then adjourned to the second Monday of the next session of Congress.

On motion by Mr. KING, it was

*Ordered*, That the articles of impeachment against Judge Peck, with his answer and exhibits, be printed for the use of the Senate.

WEDNESDAY, May 26.

### *Removal of the Indians.*

The amendments from the House of Representatives to the bill "to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the river Mississippi," were received, and, being read—

Mr. CLAYTON moved that they be postponed until to-morrow; which motion was rejected—yeas 19, nays 24.

The first amendment being concurred in,

Mr. FREELINGHUYSEN moved to amend the second amendment, by inserting at the end thereof, "and that, until they shall choose to remove, the said tribes be protected from all State encroachments, according to the provisions of such treaties."

Mr. FREELINGHUYSEN moved to amend his motion by striking out the word "State," which was disagreed to by yeas 18, nays 25.

The question recurring on agreeing to the amendment as originally proposed by Mr. FREELINGHUYSEN, it was rejected—yeas 17, nays 26.

Mr. FREELINGHUYSEN moved to insert at the end of the second amendment of the House of Representatives, "and that all such tribes be protected, according to the provisions of said treaties, until they shall choose to remove;" which was rejected—yeas 18, nays 24.

On motion by Mr. SPRAGUE, to insert at the end of the said second amendment, "but such treaties shall be executed and fulfilled according to the true intent and meaning thereof,"—it was rejected—yeas 18, nays 24.

On motion by Mr. CLAYTON, to insert at the end of the said second amendment, "Provided also, that the provisions of this act shall extend only to the Indians residing within the State of Georgia"—it was rejected by the same vote.

The said second amendment was then agreed to. So it was

*Resolved*, That the Senate concur in the said amendments of the House of Representatives.

[Thursday and Friday were almost wholly spent in the consideration of private bills and executive business.]

SATURDAY, May 29.

The VICE PRESIDENT being absent, the Senate proceeded by ballot, to the election of a Presi-

dent *pro tempore*; and when the ballots were collected, it appeared that twenty-six members had voted.

Of these votes, Mr. SMITH, of Maryland, having received fifteen, was declared to be duly elected.

The Senate having disposed of every bill before it from the House of Representatives, proceeded to consider executive business before ten o'clock P. M., and remained so engaged until the adjournment, interrupted only by messages from the other House, and from the President of the United States.

About four o'clock A. M. the Senate adjourned.

MONDAY, May 31.

A Message was received from the President of the United States, and read as follows:

WASHINGTON, 31st May, 1890.

*To the Senate of the United States:*

GENTLEMEN: I have considered the bill proposing "to authorize a subscription of stock in the Washington Turnpike Road Company," and now return the same to the Senate, in which it originated.

I am unable to approve this bill; and would respectfully refer the Senate to my Message to the House of Representatives, on returning to that House the bill to authorize "a subscription of stock in the Maysville, Washington, Paris, and Lexington Turnpike Road Company," for a statement of my objections to the bill herewith returned. The Message referred to bears date on the 27th instant, and a printed copy of the same is herewith transmitted.

ANDREW JACKSON.

The bill referred to in the foregoing message having originated in the Senate, that body proceeded to reconsider said bill, in the manner prescribed in the seventh section of the first article of the constitution; and two-thirds of the Senators present not having voted for its passage, it was rejected by the following vote:

YEAS.—Messrs. Barnard, Barton, Benton, Burnet, Chambers, Chase, Clayton, Hendricks, Johnston, King, Livingston, McKinley, Naudain, Noble, Robbins, Ruggles, Seymour, Silabee, Smith of Maryland, Webster, Willey—21.

NAYS.—Messrs. Adams, Bibb, Brown, Dickerson, Dudley, Ellis, Foot, Grundy, Iredell, Kane, Rowan, Sanford, Smith of South Carolina, Sprague, Tyler, White, Woodbury—17.

Thirty-eight members present; necessary to pass the bill, twenty-six.

*Close of the Session.*

A message was received from the House of Representatives, stating that they had appointed a committee, to join such committee as might be appointed by the Senate, to wait on the President of the United States, and inform him that the two Houses, having finished the business before them, were prepared to adjourn, unless he have further communications to make; in which the Senate concurred, and Mr. Wood-

MAY, 1890.]

*Close of the Session.*

[SENATE.]

BURY and Mr. BURNER were appointed on the part of the Senate.

Mr. WOODBURY reported that they had discharged the duty assigned them, and had been informed by the President that he had no further communication to make, except that he has detained the act in relation to the subscription for the stock in the Louisville and Port-

land Canal Company, and an act in relation to certain light-houses and harbors, for further consideration.

The usual messages were interchanged between the two Houses of their intention to adjourn.

The President then adjourned the Senate, *sine die*.

## TWENTY-FIRST CONGRESS.—FIRST SESSION.

### PROCEEDINGS AND DEBATES

IN

## THE HOUSE OF REPRESENTATIVES.\*

MONDAY, December 7, 1829.

At 12 o'clock, precisely, the House was called to order by MATTHEW ST. CLAIR CLARKE, Esq., Clerk to the last Congress.

#### \* LIST OF REPRESENTATIVES.

*Maine*.—John Anderson, Samuel Butman, George Evans, Rufus McIntire, James W. Ripley, Joseph F. Wingate. [One vacancy.]

*New Hampshire*.—John Brodhead, Thomas Chandler, Joseph Hammons, Jonathan Harvey, Henry Hubbard, John W. Weeks.

*Massachusetts*.—John Bailey, Isaac C. Bates, B. W. Crowninshield, John Davis, Henry W. Dwight, Edward Everett, Benjamin Gorham, George Grennell, Jr., James L. Hodges, Joseph G. Kendall, John Reed, Joseph Richardson, John Varnum.

*Rhode Island*.—Tristram Burges, Dutee J. Pearce.

*Connecticut*.—Noyes Barber, Wm. W. Ellsworth, J. W. Huntington, Ralph J. Ingersoll, W. L. Storrs, Ebenezer Young.

*Vermont*.—William Cahoon, Horace Everett, Jonathan Hunt, Rollin C. Mallary, Benjamin Swift.

*New York*.—William G. Angel, Benedict Arnold, Thomas Beekman, Abraham Bockee, Peter I. Borst, O. C. Cambreleng, Jacob Crocheron, Timothy Childs, Henry B. Cowles, Hector Craig, Charles G. Dewitt, John D. Dickinson, Jonas Earl, Jr., George Fisher, Isaac Finch, Michael Hoffman, Joseph Hawkins, Jehiel H. Halsey, Perkins King, James W. Lent, John Magee, Henry C. Martindale, Robert Monell, Thomas Maxwell, E. F. Norton, Gershom Powers, Robert S. Rose, Henry R. Storrs, James Strong, Ambrose Spencer, John W. Taylor, Phineas L. Tracy, Gullan O. Verplanck, Campbell P. White.

*New Jersey*.—Lewis Condit, Richard M. Cooper, Thomas H. Hughes, Isaac Pierson, James F. Randolph, Samuel Swann.

*Pennsylvania*.—James Buchanan, Richard Coulter, Thomas H. Crawford, Joshua Evans, Chauncey Forward, Joseph Fry, Jr., James Ford, Innis Green, John Gilmore, Joseph Hemphill, Peter Ihrie, Jr., Thomas Irwin, Adam King,

The roll of members having been called over by States, it appeared that there were present one hundred and ninety-four Representatives, and three Delegates from Territories.

A quorum of the House being present—

*George G. Lelper, H. A. Muhlenburg, Alem Marr, Daniel H. Miller, William McCreery, William Ramsay, John Scott, Philander Stephens, John B. Sterigere, Joel B. Sutherland, Samuel A. Smith, Thomas H. Still.* [One vacancy.]

*Delaware*.—Kamey Johns, Jr.

*Maryland*.—Elias Brown, Clement Dorsey, Benjamin C. Howard, George E. Mitchell, Michael C. Sprigg, Benedict L. Semmes, Richard Spencer, George C. Washington, Ephraim K. Wilson.

*Virginia*.—Mark Alexander, Robert Allen, William S. Archer, William Armstrong, John S. Barbour, Philip P. Barbour, J. T. Boulding, Richard Coke, Jr., Nathaniel H. Claiborne, Robert B. Craig, Philip Doddridge, Thomas Davenport, William F. Gordon, Lewis Maxwell, Charles F. Mercer, William McCoy, Thomas Newton, John Roane, Alexander Smyth, Andrew Stevenson, John Taliaferro, James Trevant.

*North Carolina*.—Willis Alston, Daniel L. Barringer, Samuel P. Carson, H. W. Conner, Edmund Deberry, Edward B. Dudley, Thomas H. Hall, Robert Potter, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams. [One vacancy.]

*South Carolina*.—Robert W. Barnwell, James Blair, John Campbell, Warren B. Davis, William Drayton, William D. Martin, George McDuffie, William T. Nuckolls, Stirling Tucker.

*Georgia*.—Thomas F. Foster, Charles E. Haynes, Wilson Lumpkin, Henry G. Lamar, Wiley Thompson, Richard H. Wilde, James M. Wayne.

*Kentucky*.—James Clark, N. D. Coleman, Thomas Chilton, Henry Daniel, Nathan Gaither, B. M. Johnson, John Kinkaid, Joseph Lecompte, Chittenden Lyon, Robert P. Letcher, Charles A. Wickliffe, Joel Yancey.

*Tennessee*.—John Blair, John Bell, David Crockett, Robert Deasa, Jacob O. Isaacs, Cave Johnson, Pryor Lea, James K. Polk, James Standifer.

*Ohio*.—Mordecai Bartley, Joseph H. Crary, William

DECEMBER, 1829.]

*Preliminary Proceedings.*

[H. OF R.]

The House proceeded to ballot for a Speaker. Mr. CONDIOT, of New Jersey, Mr. RIPLEY, of Maine, and Mr. POLK, of Tennessee, being appointed Tellers, announced, after counting the ballots, that ANDREW STEVENSON had received one hundred and fifty-nine votes; which, being a majority of the whole number,

ANDREW STEVENSON, of Virginia, was declared to be duly elected Speaker of the House.

### *The Speaker's Address.*

Being conducted to the chair, the SPEAKER elect addressed the House in the following terms:

GENTLEMEN: I receive this renewed and distinguished proof of the continued confidence and approbation of my country, with feelings of deep sensibility and unaffected gratitude; and since it is your pleasure that I should again preside over your deliberations, I accept the trust, with an earnest hope that the choice of the House may not prove injurious to its interests, or detrimental to its honor.

Of the importance and responsibility of this high office, it is unnecessary to speak. It has been justly regarded, both in relation to its elevation, and the nature and extent of its duties, as one of the most delicate and responsible trusts under the Government. Indeed, the great increase of legislative business, both of a public and private nature, (occupying, as it does, so large a portion of the year,) the number of this House, and the habit of animated, protracted, and frequent debate, have, of late, tended very much to render the duties of the Chair peculiarly arduous to the individual who fills it, and of increased importance to the public.

How far it will be in my power to meet the expectations of the House, by an able and enlightened discharge of the duties of this high station, it is not for me to say. Distrustful of my own abilities, I can promise but little else than zeal and fidelity. I shall shrink from the performance of no duty, however painful; shun no responsibility, however severe; my time and talents shall be devoted to your service; and, in pursuing the manly and steady course which duty directs, I shall, at least, be cheered and sustained by a consciousness of the purposes, and a confidence in the principles, which I shall bring with me into this arduous service. On your part, gentlemen, I shall expect and need your kind and cordial co-operation, and that general confidence, without which all the efforts of au-

thority would be nugatory; and I entreat you to afford me that aid and support in maintaining the established rules and orders of the House, so necessary to the character and dignity of its deliberations, and the despatch of the business of the nation.

In assembling again to consider the condition of our beloved country, I seize the occasion to offer you my cordial congratulations upon its prosperity and happiness, and the still more exalted destinies that await it. Whilst our relations with foreign powers are distinguished by alliances and good will, which serve but to render our friendship more valuable to each, and more courted by all, our situation at home, under the influence of virtuous and patriotic councils, is peaceful, united, and happy. How long these blessings are to be enjoyed by us, and secured to our children, must depend upon the virtue and intelligence of the people; the preservation of our happy Union; and the virtuous, liberal, and enlightened administration of our free institutions.

That our confederated republic can only exist by the ties of common interest and brotherly attachment, by mutual forbearance and moderation, (collectively and individually,) and by cherishing a devotion to liberty and union, must be apparent to every candid mind; and, as our fathers united their counsels and their arms, poured out their blood and treasure, in support of their common rights, and by the exertions of all succeeded in defending the liberties of each, so must we, if we intend to continue a free, united, and happy people, profit by their counsels, and emulate their illustrious example.

How much will depend upon the conduct and deliberations of the national legislature, and especially of this House, it is not needful that I should admonish you. I need not, I am sure, remind you, gentlemen, that we are here the guardians and Representatives of our entire country, and not the advocates of local and partial interests; that national legislation, to be permanently useful, must be just, liberal, enlightened, and impartial; that ours is the high duty of protecting all, and not a part—of maintaining inviolably the public faith—of elevating the public credit and resources of the nation—of expending the public treasure with the same care and economy that we would our own—of limiting ourselves within the pale of our constitutional powers, and regulating our measures by the great principles contained in that sacred charter, and cherishing in our hearts the sentiment that the union of the States cannot be too highly valued, or too watchfully cherished.

These are some of the great landmarks which suggest themselves to my mind, as proper to guide us in our legislative career. By these means, gentlemen, we shall not only render ourselves worthy of the high trust confided to us, but we shall endeavor to our people the principles of their constitution and free institutions, and promote a sentiment of union and action, auspicious to the safety, glory, and happiness, of our beloved and common country.

The oath of office was then administered to the Speaker by Mr. NEWTON, of Virginia, (the father of the House,) and by the SPEAKER to the members, by States in succession.

This ceremony being ended—

Crighton, James Findlay, John M. Goodenow, William W. Irwin, William Kennon, William Russell, William Stanberry, James Shields, John Thomson, Joseph Vance, Samuel F. Vinton, Ellisha Whitteley.

*Louisiana.*—Henry H. Gurley, W. H. Overton, Edward D. White.

*Indiana.*—Batiff Boon, Jonathan Jennings, John Test.

*Alabama.*—R. E. Baylor, O. C. Clay, Dixon H. Lewis.

*Mississippi.*—Thomas Hinds.

*Illinois.*—Joseph Duncan.

*Missouri.*—Spencer Pettis.

### DELEGATES.

*Michigan.*—John Biddle.

*Arkansas.*—A. H. Sevier.

*Florida.*—Joseph M. White.

VOL. X.—37

Mr. RAMSAY, of Pennsylvania, submitted the following resolution :

*Resolved*, That Matthew St. Clair Clarke, Clerk to the late House of Representatives, be appointed Clerk to this House.

Mr. JOHNSON, of Kentucky, said that he was informed that there would possibly be several other individuals who would be candidates for the office of clerk. He therefore proposed to postpone the election to twelve o'clock on Thursday, to enable members to make up a judgment upon the information which they might in the mean time receive of the characters of the various candidates. This officer, he said, was the chief controlling executive officer of this body ; his situation was one highly confidential and responsible. It was due to the members, and to the candidates, that a better opportunity should be afforded for selection from amongst the latter, than he at least had enjoyed. He had himself intended to move, that on Thursday next, at twelve o'clock, the House would proceed to the election of a clerk ; and with this view he moved to postpone until Thursday next the consideration of the resolution now under consideration.

Mr. RAMSAY asked what was the House in the mean time to do for a clerk ? Could the House proceed in its business without that officer ? In offering the resolution, Mr. R. said, he had only followed the example, set by former Congresses, of electing the clerk immediately after the choice of Speaker. And he asked that the question of postponement should be taken by yeas and nays.

The yeas and nays were accordingly ordered upon the question.

In reply to a question put to the Chair, whether the late clerk would be considered in service until an election of clerk took place, the Speaker answered that he presumed that he would.

Mr. CAMBRELENG, of New York, suggested the postponement of the election to to-morrow, instead of Thursday.

Mr. JOHNSON proposed Wednesday, as the medium between to-morrow and Thursday. The object of his motion for postponement, and the only object of it, was to obtain time to make up his mind upon information which he might receive as to the relative merits of the several candidates for this office. To-morrow the message of the President might be expected to be received, and the other officers of the House also were to be elected ; so that the election of clerk could not well be made until Wednesday, to which day, therefore, he now moved to postpone the consideration of Mr. RAMSAY'S motion.

Mr. BURGESS, of Rhode Island, said that if the old clerk could continue to act as clerk for several days, without an election, why not for the whole session ? When was his service to end ?

The SPEAKER said that that was a matter for the discretion of the House.

Mr. BURGESS said that the mere necessity of

the case made it proper that the clerk to the last House should act in organizing the present. But, when the House had gone so far as to choose a Speaker, it appeared to him that the necessity was over, and that the House would be without a clerk, unless one should be immediately chosen. Without a clerk thus chosen, he did not see how the House was to make any record of its transactions.

Mr. ALSTON, of North Carolina, thought that no difficulty could arise from a postponement of the consideration of the resolution. He thought the resolution improper in itself, and, when the gentleman from Kentucky rose, he was about to have risen himself, and propose that the House should proceed to an election by ballot. He preferred that the whole question should lie upon the table for the present, and that, whenever the House should proceed to the election of a clerk, it should be by ballot. As to the old clerk continuing to act, Mr. A. said, it had been the universal practice that the old clerk should continue to act until another should be appointed.

Mr. RAMSAY expressed his willingness, if it would meet the views of his friend, so to modify his resolution, as to propose that the House should now go into an election of a clerk.

Mr. BUCHANAN, of Pennsylvania, said he trusted that such a course would be pursued as that the House should at once go into an election by ballot. And perhaps his colleague was wrong in now proposing a different course. It had been the practice, Mr. B. knew, where no opposition to the old clerk was intended, to re-appoint him by resolution. The gentleman from Kentucky, however, had stated that he believed that there were other candidates for the office. Mr. B. said he did not know the fact : but, if there were, the proper course was, as usual, in such case, to proceed to ballot for a clerk. He should, himself, vote to lay the resolution on the table, and then to proceed to an election by ballot.

Mr. RAMSAY then withdrew his resolution in favor of Mr. Clarke, and moved, in lieu thereof, that the House do now proceed to the election of a clerk.

Mr. JOHNSON, of Kentucky, moved to amend this last motion, so as to go into an election on Wednesday next at twelve o'clock, instead of this day.

On this question the House divided—ayes 54, the noes being a large majority.

The motion to proceed directly to a balloting was then agreed to. Mr. RAMSAY then nominated Mr. Clarke, and Mr. JOHNSON nominated Virgil Maxcy, of Maryland.

The votes having been collected and counted by Mr. RAMSAY, Mr. JOHNSON, and Mr. BUCHANAN, it appeared that the number of votes given in for Mr. Clarke was one hundred and thirty-five ; which, being a majority of the whole number, MATTHEW ST. CLAIR CLARKE was elected Clerk of the House of Representatives, and was forthwith sworn into office.

DECEMBER, 1829.]

*Western Armory.*

[H. OF R.]

On motion of Mr. MILLER, of Pennsylvania, it was resolved, *nem. con.*, that JOHN OSWALD DUNN be appointed Sergeant-at-Arms to the House.

On motion of Mr. MILLER, the House then proceeded to the election of a doorkeeper. The late venerable (though now infirm) doorkeeper, Capt. BENJAMIN BURCH, was nominated, in a very appropriate manner, by Mr. TUCKER, of South Carolina. Several other persons were nominated by different members. The ballots having been counted by tellers named by the Speaker, Mr. TUCKER reported that Mr. Burch had received one hundred and thirty-six votes, (a large majority of the whole number,) and was consequently chosen.

On motion, it was resolved, *nem. con.*, that OVERTON CARR be appointed Assistant Doorkeeper to this House.

The usual message having been interchanged with the Senate, it was resolved that a committee be appointed on the part of this House, to join such committee as have been, or may be, appointed on the part of the Senate, to wait upon the President of the United States, and inform him that quorums of the two Houses have assembled, and that Congress are ready to receive any communications he may be pleased to make.

#### TUESDAY, December 8.

Mr. DRAYTON, from the committee appointed on the part of this House, to join the committee appointed on the part of the Senate, to wait on the President of the United States, &c., reported that the committee had waited on the President accordingly, and that the President answered that he would make a communication to Congress this day.

The Message of the President of the United States was soon after received, by the hands of A. J. DONELSON, Esq., his Private Secretary, and read. [See Senate Proceedings, p. 405.]

Whereupon, ten thousand copies thereof were ordered to be printed for the use of this House.

#### THURSDAY, December 10.

##### *President's Message.*

The House then went into Committee of the Whole on the state of the Union; when the several branches of the President's Message were referred to the different Standing and Select Committees.

#### TUESDAY, December 15.

##### *Refuse Lands in Tennessee.*

Mr. CROCKETT moved the following resolution, viz:

*Resolved*, That a Select Committee be appointed, with instructions to inquire as to the most equitable and advantageous mode of disposing of the refuse

lands lying south and west of the Congressional reservation line in the State of Tennessee.

This resolution being read,

Mr. POLK, of Tennessee, moved to amend the resolution, by striking out so much as proposes a Select Committee, and moving to refer the subject of the resolution to the Committee on the Public Lands.

Mr. CROCKETT said, that he wished this subject to take the same course now as it had done heretofore. The resolution referred, he said, to a few scraps of land lying along in his district, which it was high time should be disposed of. The subject had been already several times before Congress, and had always heretofore been referred to a Select Committee; and all that he asked, was, that it should take the same course now as it had done heretofore.

Mr. POLK said, that a part of this subject was always before the Committee on the Public Lands in the shape of a memorial from the Legislature of Tennessee. He thought, therefore, that a reference of this resolution to that committee was expedient, that all parts of the subject should be placed before the same committee.

Mr. STRIGER, of Pennsylvania, said, that at the late session of Congress, a proposition had been made for distributing the vacant public lands, or the proceeds of them, among the several States. This proposition was so connected with the subject of this resolution, that, as he expected it would be renewed at this session, he moved that the pending resolution lie upon the table for the present.

The motion to lay the resolution on the table was negatived.

Mr. CROCKETT made some further remarks, in which he was understood to say that the Legislature of Tennessee was disposed to withdraw its former memorial. But, however that might be, he said his colleague (Mr. POLK) had heretofore had this matter in his charge as head of a Select Committee; and, said Mr. C., as I live among the people who are interested in these lands, I want now to have something to do myself with the disposition of the subject.

The motion of Mr. POLK to amend Mr. CROCKETT's resolve was then negatived, 92 to 65; and Mr. C.'s resolution was agreed to.

##### *Western Armory.*

Mr. DESHA moved the following resolution, viz:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of establishing an armory at some suitable point upon the Western waters.

Mr. CHILTON, of Kentucky, proposed to amend the resolution, by adding to it, "or at the falls of ———, in the State of Kentucky," and added some observations to show the strong claims of this location for the proposed armory.



Mr. VANCE, of Ohio, thought that, considering the variety of conflicting claims for this object, the resolution had better be general in its terms, and refer the whole subject of the establishment of an armory on the Western waters to the same committee; that all the sites in the Western country might be considered together.

The resolution was then modified, with the consent of the mover, so as to propose a general inquiry into the expediency of establishing an armory on the waters of the Western States.

Mr. CARSON, of North Carolina, remarking that no part of the country possessed more valuable water power than the western part of the State of North Carolina, proposed to amend the resolution by adding, "or on the western waters of the State of North Carolina."

Mr. JOHNSON, of Kentucky, said he regretted this motion on the part of his friend from North Carolina, as calculated to produce a collision between the West and the South as to the location of an armory. He was perfectly willing to vote for an independent proposition to inquire into the expediency of the erection of an armory in the South, but he was unwilling to connect it with a proposition for an armory in the West. For the last fifteen years it had been in vain attempted to procure the establishment of a National Armory on the Western waters, notwithstanding the unanimous opinion of the West, concurred in by the executive officers of the Government, that a Western armory was necessary, not to gratify individuals interested in its location, but for the defence of the country, and to prevent prodigal expenditure of the public moneys in transportation of arms, &c. We have now National Armories at Springfield, in Massachusetts, and at Harper's Ferry, in Virginia; and a report had been made to Congress, at his own instance, pointing out the various sites which the United States engineers had thought would be advantageous for an armory in the Western country. But, although his immediate constituents were deeply interested in the establishment of an armory at the Horse Shoe Bend, and others equally interested in other sites, he despaired ever seeing in his day an armory established in the West at all, unless upon the broad principle of giving the Executive of the United States the power of selecting a site, as had been done heretofore in the case of the armory at Springfield, and that at Harper's Ferry. Having no objection to inquiring into the expediency of establishing an armory in the West, as well as in the South, but being opposed to confounding the two propositions, Mr. J. moved to strike out of Mr. CARSON's amendment the conjunction *or*, and insert *and*, which would have the effect to separate the two propositions, instead of connecting them.

Mr. CARSON said he was entirely disposed to gratify his friend from Kentucky; but, as his

motion had been made on the impulse of the moment, and could be readily modified to meet his friend's views, he moved, to give opportunity for that purpose, that the resolution should be ordered to lie upon the table for the present.

The motion was agreed to.

#### *Annual Treasury Report.*

The Speaker laid before the House a letter from the Secretary of the Treasury, (Samuel D. Ingham, Esq.,) transmitting his annual report upon the state of the finances.

The report having been announced from the Chair,

Mr. BUCHANAN moved that ten thousand copies of the report, and the documents accompanying it, be printed.

Mr. WHITTLESEY proposed six thousand copies, being the largest number ever printed of a public document before this session.

Mr. BUCHANAN said that the Annual Report of the Treasury Department was always looked to with great interest by the people; that it was too voluminous to find admission at large into the newspapers; that its general circulation was very desirable, &c. Ten thousand copies had been ordered to be printed of the documents accompanying the Message of the President; and this document, he presumed, would be considered of at least equal importance.

Mr. WHITTLESEY said he admitted that this document was one of importance, and sought for with avidity. He thought, however, that the largest number of copies ever before printed, was sufficiently large now; especially as the material and substantial part of the report would find its way into every newspaper in the country. He was disposed, he said, to observe, as far as was consistent with a prudent regard to the public interest, the system of economy recommended in the report of the Committee of Retrenchment at the session before the last; and he could not conceal his surprise that gentlemen who were, at the last session, so anxious to reduce the amount of expenditure, especially on objects of this nature, to which they seemed to have directed much of their attention, should now show such a disposition to swell it instead of reducing it.

Mr. BUCHANAN said he was happy to find that the gentleman from Ohio was now so decided an advocate for retrenchment; not knowing, however, that he had ever found him otherwise. He did not know but, in pursuit of this object, he and the gentleman from Ohio would be found going hand in hand. But this, Mr. B. said, was not the point at which they ought to begin to retrench. Retrenchment ought not to begin with communication of information of this sort to the people, who are more interested in knowing exactly what has been the management of their financial concerns than, perhaps, in any other subject. If we are to begin the work, said Mr. B., let it be

DECEMBER, 1829.]

*Committee on Education.*

[H. OF R.]

with something else, more in accordance with the proper principles of retrenchment than this.

The question was then taken on printing the largest number proposed, ten thousand copies, and decided in the affirmative.

WEDNESDAY, December 16.

The resolution came up which was yesterday moved by Mr. RICHARDSON, of Massachusetts, for the addition to the Standing Committees of a

*Committee on Education.*

The resolution having been read,

Mr. RICHARDSON said that his proposition was a simple one, proposing only that a Standing Committee on Education should be provided, by the rules and orders of the House. Unless it was made necessary, by objections to the resolution, he should not occupy any portion of the time of the House upon it, but submit it for decision without remark.

Mr. HALL said, in due deference to the gentleman who presented this resolution, the subject was one which he conceived did not properly come within the control of Congress. I shall, said he, therefore, feel myself bound to object to the resolution. The subject of education, evidently, so far as legislation can be carried to it, properly belongs to the State authorities. If we go on assuming authority over subjects entirely foreign to our sphere of authority, where are we to end? We already have much extrinsic matter. As an instance, I will mention the subject of agriculture; over which we have, I believe, a Standing Committee. This, I have always been at a loss to reconcile to my idea of the just power of Congress. If we go on ingulfing every subject to which legislation can be carried, to what result must we come? Shall we not effectually assume all the power of the State authorities? This must necessarily be the result. Sir, there is a doctrine advanced, and properly advanced, and sustained by the Supreme Court of the United States, a doctrine properly deduced from one of the plainest provisions of the constitution—it is, that all the powers of this Government, though limited, are plenary, within their proper sphere. I admit the soundness of this doctrine; but if so, it at once puts this subject to rest. I presume neither the gentleman himself, nor any other, will pretend that the States have not the right to legislate upon this subject. If this be so, it is decisive that this Government cannot, because its power over the subject, being plenary, is necessarily exclusive, and therefore not to be participated. It is not my object to detain the House; but for the reasons given, I object to the resolution.

Mr. DAVIS, of South Carolina, expressed a desire to know what were the particular views which had induced the gentleman from Massachusetts to bring forward this proposition.

Mr. STORRS, of New York, made a few observations, the import of which was, that he was perfectly willing, when any subject requiring it should be before the House, to give it direction to a proper committee. He was not aware, however, of any necessity for a Standing Committee on the subject. The only way in which it had heretofore been directly presented to the consideration of the House, was in the shape of propositions connected with grants of public lands, which had been, as matter of course, referred to the Committee on Public Lands. Believing the consideration of such propositions to be safely lodged in the hands of that committee, he had no disposition to transfer it to another Select Committee. As at present advised, therefore, he should vote against the resolution.

Mr. RICHARDSON said, that the importance of education to the people of the United States, induced him to advocate the adoption of the resolution now before the House.

The gentleman from New York (Mr. H. R. STORRS) has said that he knows not what a Standing Committee on Education can have to act upon. Mr. R. said he would reply to the gentleman, that such a committee would have the whole subject to act upon—a long-neglected subject, and of the highest importance to the welfare of this Union.

This subject had been most earnestly and repeatedly recommended by the great patrons of liberty—the fathers of American independence—the founders of this republic. Permit me, said Mr. R., to call the attention of the House to the opinion contained in the message of the first President of the United States to Congress, in 1790:

“Nor am I less persuaded that you will agree with me in opinion that there is nothing which can better deserve your patronage than the promotion of science and literature. Knowledge is, in every country, the surest basis of public happiness. In one, in which the measures of Government receive their impressions so immediately from the sense of the community as in ours, it is proportionably essential. To the security of a free constitution it contributes in various ways. By convincing those who are intrusted with the public administration, that every valuable end of government is best answered by the enlightened confidence of the people, and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority—between burdens proceeding from a disregard to their convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness—cherishing the first—avoiding the last—and uniting a speedy, but temperate vigilance against encroachments, with an inviolable respect to the laws. Whether this desirable object will be best promoted by affording aids to seminaries of learning already established, by the institution of a National University, or by any other expedients, will be well worthy of a place in the deliberations

of the Legislature."—*Washington's Message to Congress.*

Mr. Speaker, this is not a solitary recommendation of this subject to the attention of Congress. In similar language, it has been repeatedly urged upon Congress by Washington, Jefferson, Madison, and others.

If it be true, as the gentleman from New York says, that a Committee on Education would have nothing to act upon, the fact is enough to encrimson the cheek of every friend to his country with the blush of deep mortification. It is high time that there were a committee to make this a subject of attention—to devise and mature measures to promote an object of vital importance to this republic.

The gentleman from North Carolina (Mr. HALL) has stated that he has constitutional objections to the proposed measure. Is it possible that the constitution prohibits the power to raise a Committee on Education, whilst there are committees on agriculture, manufactures, Indian affairs, and various interests, never named in the constitution? What is the language of the constitution? "We, the people of the United States, in order [among other things] to promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America." The eighth section, which enumerates the powers of Congress, declares expressly that "the Congress shall have power to provide for the general welfare of the United States;" and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution." Is it possible to doubt that Congress is vested by the constitution with power to pass any laws, or adopt any measures, not prohibited by it, which are essential "to promote the general welfare?" All unite in bearing testimony that the general diffusion of knowledge in the United States is essential "to the general welfare, and to secure the blessings of liberty." Singular, indeed, would it be, if the framers of the constitution had bound their own hands, and the hands of their posterity, under articles and sections, to exclude the great law of self-preservation from the system. I cannot impute to them, nor to the system, a folly so stupendous.

Mr. ARCHER, of Virginia, said, that, in common, he had no doubt, with many members of the House, he should have a good deal to say on the subject of this resolution, if he could conceive (which he did not) that there was any danger of its adoption. He was persuaded that the honorable mover had not meditated fully the extent of the question which the resolution went to raise. It was one of the largest, and, in the most favorable aspect, contestable questions of power which had been ever presented in the operation of the Government. It was true, as the gentleman had suggested, that the subject had been brought to the attention of Congress heretofore, on more

than one occasion, but in modes very different from that now proposed. It had been suggested in the messages of Chief Magistrates, as a topic of the gravest deliberation, or there had been a formal assertion by resolution that the power resided in the Government, accompanied by propositions for a practical application of it. Mr. A. had supposed that these were times in which republican principles had attained ascendancy, and the revival of this doctrine would not be thought of in this House. If the gentleman did desire the revival, however, and thought he could find any considerable number to think with him, the mode of proceeding should be that to which he (Mr. A.) had just referred; by resolution affirming the power, to which the present resolution might be a sequel. It could not be expected that, by indirection on a mere proposition to raise a committee, a decision was to be had, to let in not only this jurisdiction, but the mass of connected constructions which were equally involved. Mr. A. professed himself entirely prepared now to enter into the discussion and disprove the power. He could not conceive that it could be necessary to do so, however; and in that view, he should content himself with moving that the resolution be laid on the table, with the purpose that it should not be taken up again.

The question on laying the resolution on the table was then taken by yeas and nays, and decided as follows: yeas 156, nays 52.

*Honor to a Deceased Member.*

Mr. BARRINGER, of North Carolina, rose for the purpose of performing the last sad office due to friendship, in announcing to the House the death of his late esteemed colleague, the honorable GABRIEL HOLMES. He said he would have performed this duty at an earlier day, but for his own impaired health. Before tendering to the House a resolution which he had prepared in relation to the melancholy event which he had just announced, he might, he hoped, be excused for saying, that those to whom the late Governor Holmes was known, eulogy would be unnecessary, and to those to whom his deceased friend and colleague was unknown, he felt, in his present state of impaired health, an utter inability to do justice to the eminent virtues of the deceased. He should not, therefore, make the attempt. He had the pleasure of knowing him in all the relations of life; in the endearing domestic relations, in which he was unsurpassed for the gentler virtues of conjugal tenderness and affection, for parental kindness and indulgence; as the chief magistrate of his native State, in which he discharged the duties devolved upon him with a dignity becoming his own elevated character, and the confidence reposed in him by his own constituents; as a Representative of the people in this House. How appropriately he performed his duties here, was too well known to require a recital from him.

DECEMBER, 1829.]

*Distribution of Public Lands.*

[H. OF R.]

Mr. B. said his deceased friend and colleague had been an honored member of the nineteenth and twentieth Congresses, and a member elect of the twenty-first Congress of this House. It had pleased Heaven to remove him, and it was due to him to say that his loss was most regretted by those who knew him best; and, as a testimonial of respect for the memory of the deceased, he asked of the kindness of the House the adoption of the resolution which he now offered.

Mr. B. then presented the following:

*Resolved*, That the members of the House of Representatives, from a sincere desire of showing every mark of respect due to the memory of the honorable GABRIEL HOLMES, late a member thereof, from the State of North Carolina, will go into mourning for one month, by the usual mode of wearing crape around the left arm.

The resolution was unanimously agreed to.

As a further mark of respect to the memory of the deceased, Mr. BARRINGER then moved that the House do now adjourn.

THURSDAY, December 17.

*Distribution of Public Lands.*

Mr. HUNT, of Vermont, submitted for consideration the following resolution:

*Resolved*, That the Committee on the Public Lands be instructed to inquire into the expediency of appropriating the net annual proceeds of the sales of the public lands among the several States, for the purposes of education and internal improvement, in proportion to the representation of each in the House of Representatives.

The question of consideration of this resolve was demanded by Mr. STANBERRY, of Ohio, and decided in the affirmative.

Mr. STERIGER, of Pennsylvania, then moved to amend the resolution by striking out, after the word "States," the words, "for the purposes of education and internal improvement." He had no objection whatever to the principle of distributing the net proceeds of the sales of public lands among the States, but he was opposed to the restriction upon the application of them proposed by the resolution.

Mr. HUNT said, that, by repeated special grants, donations of the public lands had been made to some of the States, and to particular institutions in others of the States, but in all cases for the purposes of education and internal improvement, and for none other. He wished, in the distribution of the avails of the residue of the public lands, to adhere to the same principle.

Mr. TEST, of Indiana, said, that he considered the principle involved in the resolution to be one of great importance, and one which this House ought not to be called to act upon without due consideration. He objected to the resolution, as well in its details as in its principle. It seemed to him to embrace, in effect,

the proposition that the public lands should be divided among the States generally; to which he could never consent. He thought that time should be given to reflect upon the subject before it was further acted upon. With that view he moved to lay the resolution upon the table.

The motion to lay the resolution on the table was negatived, 108 votes to 71.

The question on Mr. STERIGER's motion to amend the resolve was then also decided in the negative, 102 votes to 72.

Mr. SEVIER, Delegate from Arkansas, moved to amend the resolve, by inserting, after the word "States," the words, "and Territories;" and

This motion to amend was agreed to.

Mr. VANCE, of Ohio, asked how the resolve would read thus amended? How could the Territories become entitled to land, &c., "in proportion to the representation of each," &c.? The Territories, he said, have no representation on this floor. They would have no claim to land under this resolve, unless the House should further resolve that delegates are representatives.

Mr. MARTIN, of South Carolina, entered his protest against the number and variety of propositions brought before the House concerning the public lands, and proposing to dispose of them in various ways. It seemed as if the four quarters of the Union were striving with one another which should get the most out of these lands. The appetite for them appeared to be insatiable and uncontrollable. He was opposed to the whole of these propositions. This was not the time to express at large his views on this subject; but if there was any justice, truth, or reason, in the proposition now submitted to the House, the amendment which he was about to propose ought to have its weight with the House. Mr. M. said he did not conceal from the House that he meant to vote against the resolution in any shape; but if the resolution is entitled to pass at all, it should be with the amendment. The principle of the resolution is, that a distribution of the proceeds of sales of the public lands shall be made among the several States for certain purposes. If this be a right disposition of them, said Mr. M., it then follows that those who have had land heretofore should render an account of what they have already had. Let us see how the balance sheet stands. Let us see what proportion of the public lands has been given to the Atlantic States, from Maine to Georgia. Let us compare that proportion with what has been given to the States west of the Alleghany. If there be any propriety in the mode of disposing of the public lands at all, let us bring this question to the test; what proportion has been heretofore given to the States respectively, or to institutions within those States? He would not now pursue the inquiry in detail, but he said the amount which had been given to the States

west of the Alleghany was incalculable; he should hardly be credited were he to attempt to state it. He concluded by moving to insert after the word "inquire," in the resolution, the words, "into the amount and value of the public lands which have been given by Congress to any State, or to any public institution in said State."

Mr. VANCE, of Ohio, said, that he was very much of opinion that, in the views which he had taken of it, the gentleman from South Carolina had looked to but one side of this question. The people of the Western States had certainly received from the United States grants of land for the purpose of promoting education; or, rather, the Government had said to them, If you will buy thirty-five sections of the public land, we will give you one section for the purpose of promoting education. And the gentleman from South Carolina, if he had gone to the Western country, as the settlers of that country did, and waded through fevers and fogs to clear it, and paid as much money as they did for their lands, would have been entitled to the same benefit as they from this sort of donation. Sir, said Mr. V., I am as willing to meet this question at one time as another: I say, that we of the West have had no donations of public land. Everybody that got lands in that country paid for them; and the people of that country know how they have been fleeced of their last dollar for that purpose. It was well known, he said, to the people of that country, how they had earned their school lands. They had paid for them a sufficiently valuable consideration. He was not prepared, he said, any more than the gentleman from South Carolina, to go into this discussion; but at the threshold he was willing to meet the doctrine of the gentleman concerning these lands. Any one who had been raised in the West, or had purchased lands there, had their feelings on this subject; and he, for one, knew how to sympathize with them from his own experience.

Mr. MALLARY, of Vermont, said, that it was true that the subject of inquiry proposed by this resolution was of great importance; but the resolution proposed only to invite to it the attention of a committee of the House, and not to settle any principle. The subject of a disposition of the public lands, it was well known, is agitated in every part of the Union. Various views are entertained of it. We know that, in many parts of the country, the people believe that the avails of the public lands, after the national debt is paid, ought to be divided among the several States. Whether this course should be pursued, or not, was not the question before the House, but whether the subject itself was of sufficient importance to invite an investigation here. In relation to the amendment which had been proposed, Mr. M. said, he did not see any thing injurious in its character, or adverse to the object of the mover of the original resolution. He did not see any

thing insulting in this proposed amendment: he was perfectly willing that the committee should turn their attention to it, and he hoped that the result of their inquiries would be to present an interesting document, going to show how much land has been appropriated by Congress for public purposes in the several States. When the facts were ascertained, it would be seen whether, in a general apportionment, there ought to be a reduction from the quotas of these States or not. Mr. M. did not conceive it at all important whether the amendment should be rejected or not; but, of the two, he should prefer its being carried. For himself, he supposed that these donations of land have been beneficially bestowed. He felt, therefore, no alarm at the idea of ascertaining the amount of them; nor would the insertion of such an amendment deter him from pursuing the main object of the resolution.

Mr. JOHNSON, of Kentucky, said, that the subject of this resolution was one very deeply interesting to the State which he partly represented, and that he should much prefer that it should be made to contain no proposition or sentiment that in the commencement of the inquiry should promise a quarrel between the different members of the Union. He should prefer that the resolution should stand upon the liberal basis of looking to the future rather than to the time past, though he believed that the State of Kentucky, in regard to donations from the General Government, whether in money or in land, would not lose by the general settlement of the question which the gentleman from South Carolina had spoken of. At its last session, the Legislature of the State of Kentucky had had this subject under its consideration, and had requested its Representatives to present a claim to Congress for a part of the public domain, which, Mr. J. said, was rendered more interesting to the district which he represented, from the fact of its bordering on the Ohio River, by which it was separated from two or three of those States, which are alleged to have received an undue proportion of the donations of public lands. He thought, however, that the general discussion of this subject had better be postponed. He should vote for the proposition for inquiry on the most liberal principle: but, in doing so, he did by no means admit that the State of Kentucky had received from the United States an undue proportion of aid, either in land or in money.

Mr. REED, of Massachusetts, rose, not, he said, to engage in debate on this subject, but to show that the information sought for by the amendment under consideration was furnished to Congress at the last session, as would be found by a document on the files of the House, to which he called the attention of gentlemen.

Mr. TAYLOR, of New York, said, he had risen at the same moment as the gentleman from Massachusetts, for the purpose of stating the same thing as that gentleman had already done. The report of the committee raised at

DECEMBER, 1829.]

*Western Armory.*

[H. OF R.]

the last session on this subject did not give the value of the lands granted to the several States, but he thought that it was sufficiently minute for all practical purposes. The amendment now proposed, was, he thought, calculated to embarrass the main question. He invited the attention of gentlemen to the report of the committee of the last session on this subject, which he thought contained a good deal of useful information, and which was deemed so interesting that six thousand copies of it had been ordered to be printed.

Mr. WILDE, of Georgia, avowed himself in favor of the amendment of his friend from South Carolina, and did not consider it a sufficient reason for rejecting it, that an inquiry had been made into similar topics at the last session of Congress, and that the result of it is now to be found on the files of the House. He was opposed to the original proposition. He understood that the whole subject of the disposition of the surplus revenue of the United States, over and above the payment of the public debt, constituting, as it did, one of the topics of the President's Message, had been already referred to a committee of the House. It was now for the House to determine, whether, having referred the general subject, in all its extent, to one committee, it would place a particular portion of the question under consideration of another and distinct committee. He was opposed to this separation of its parts.

Mr. HAYNES, of Georgia, moved that the resolution and amendment do lie upon the table; and the motion was agreed to by a majority of about twenty votes.

#### *Postage on Periodicals.*

Mr. VERPLANCK, of New York, submitted for consideration the following:

*Resolved,* That the Committee on the Post Office and Post Roads be instructed to inquire and report on the expediency of reducing the rate of postage on periodical publications, and placing them at the same rate and under the same regulation with newspapers.

In offering this resolution, Mr. VERPLANCK said, that it was necessary to observe that the present rate of postage on periodical publications was about three times that upon newspapers. It was properly so graduated when that species of publication had been confined to the higher objects of criticism and polite literature. But it could not have escaped the attention of any one, that it had gradually acquired another character, having become extensively subservient to objects of a religious and moral character—to the diffusion of a knowledge of the popular sciences, and to the purposes of general education. The high postage on these publications, Mr. V. said, was an obstacle in the way of the prosecution of many benevolent plans of this sort. After the great plans for the promotion of education which had been suggested to the House, Mr. V. said his motion might have been considered com-

paratively unimportant; but it had the merit of being free from constitutional objections, and of being very practical: and, if he succeeded in his object, he trusted that it would turn out to be very useful.

The resolution was then agreed to.

#### *Western Armory.*

On motion of Mr. CARSON, the House proceeded again to consider the resolution moved on Tuesday by Mr. DESHA, proposing to refer to a committee the expediency of locating an armory on the Western waters.

A good deal of debate took place on this motion, and on proposed amendments to it; in which debate, Mr. CARSON, Mr. WILDE, Mr. WICKLIFFE, Mr. POLK, Mr. WHITTLESSEY, Mr. BELL, Mr. CHILTON, and Mr. BLAIR, of Tennessee, took part. The same feeling was displayed by several of the gentlemen, as has often been shown in the discussion of this question in Congress, by those who considered the interests of their districts to be affected in one way or other by it. But, before any question was taken upon it, the consideration of it was terminated by a motion for adjournment; and

The House adjourned to Monday.

MONDAY, December 21.

#### *Western Armory.*

The House resumed the consideration of the resolution originally offered by Mr. DESHA, instructing the Committee on Military Affairs to inquire into the expediency of establishing an armory at a suitable site on the Western waters.

Mr. BLAIR, of Tennessee, moved that the resolution, with the amendment proposed to it when last under consideration, be laid on the table; but withdrew the motion at the request of Mr. WICKLIFFE, who, believing that it was not practicable for this House ever to decide on a site for the armory, wished to move an amendment proposing to inquire into the expediency of giving to the Executive the power to designate the site.

As there was a previous question pending, however, this proposed amendment could not be received.

The actual question being on an amendment moved by Mr. GILMORE, of Pennsylvania, restricting the inquiry of the committee to the expediency of establishing an armory pursuant to the report of certain commissioners under the act of Congress of 1828—

Mr. JOHNSON, of Kentucky, opposed this amendment with great earnestness. He dwelt upon the impropriety of imposing this restriction, when it was known that other surveys had been since made, in consequence of a resolution of the Senate, which were entitled to as much respect as those which had been made under the act referred to in the amendment. He denied that the last-mentioned surveys were

exclusively entitled to respect. He expressed his hope that this amendment would be withdrawn by the honorable mover, when he considered that, without it, the committee would be left perfectly at liberty to act upon whatever evidence might be placed before them, &c. He concluded his series of observations, by expressing his regret at being obliged thus early to enter into debate in the House, after having been ten years out of it, a member of another body: but the subject was one of such peculiar interest to the part of the country which he represented, that he could not refrain from expressing his views of it.

Mr. GILMORE expressed his regret that he could not, consistently with his duty to his constituents, comply with the request of the gentleman from Kentucky, to withdraw his proposition. This was a subject, he said, in which the district which he represented felt a great deal of interest. After a full and fair examination, the commissioners under the act of 1823 had given a preference to three sites, two of which were in the district which he represented, viz: if steam power were used, Pittsburg—if water power, Beaver: the further examination and re-examination of sites, he said, could only tend further to procrastinate the establishment of this armory, the expediency of which was admitted by all. The best proposition that he had seen was contained in the bill reported at the two last sessions, which proposed, in substance, that the three gentlemen who had made the former report, (gentlemen of high reputation for both talents and integrity,) should be authorized to determine the location of the armory. He could not consistently withdraw his motion for amendment, though he believed that, if the subject was thrown wide open, as proposed, we should be farther from the establishment of an armory on the Western waters than we now are.

Mr. MALLABY, of Vermont, took a review of the history of this proposition for the establishment of a Western armory. He was opposed to the amendment; and for reasons which he gave at large, he was opposed to any attempt to settle the question of location in this House. He showed the difficulties which would attend its settlement here. He was for leaving it open, so as to let the place be designated by the Executive.

Mr. JENNINGS, of Indiana, after a few explanatory remarks, moved an amendment to the amendment of Mr. GILMORE, in the shape of a proviso, that the site of the armory should be fixed "as far west as the longitude of Zanesville, in the State of Ohio."

The question was taken on this last amendment, and decided in the negative.

Mr. SEVIER, Delegate from Arkansas, said, that, as it seemed to be agreed that an armory ought to be established on the Western waters, he could not but urge the claims of the country west of the Mississippi to its location. What was the object of this armory, he asked?

It was to manufacture arms, for the purpose of defending the nation against its enemies. The next question was, where was the Western country to be invaded by an enemy? Either by the Indians on the frontier, or at New Orleans. If this armory should be located on the Ohio, what would be the consequence? The Government will have to buy a site, to buy fuel, &c., to manufacture the arms; and, when manufactured, it was well known that for nearly half the year the Ohio was dried up, and for a great part of the other was frozen over, so as to place great difficulty and uncertainty in the way of prompt transportation of these arms wherever they might be wanted. West of the Mississippi were to be found inexhaustible mines of iron ore; the Government owns the sites; the Government owns the fuel; the Government owns the mines, &c., &c., and all the expense of purchasing these would be saved. With these facts before the House, it appeared to him that it would be proper to locate the armory west of the Mississippi, where it could promptly and effectually furnish arms to defend the frontier, and to defend New Orleans, &c. For these reasons, he hoped that the amendment would be rejected, and the resolution left as open as possible, so as to allow of free selection.

Mr. VANCE, of Ohio, stated, as a reason for leaving this inquiry open and free from restriction, that, when the surveys under the act of 1823 were made, the improvement of the Western country, by means of canals, had not begun: whereas, if there had been a canal then, as now, extending within a few miles of Zanesville, that report would probably have been in favor of the location at Zanesville. At Cincinnati, also, he said, an important point was made by means of the canal. The effect of this work of internal improvement at other points was such as to warrant the whole subject being thrown open for further examination. If the gentleman from Pennsylvania would not withdraw his amendment, therefore, Mr. V. hoped that it would not be agreed to.

Mr. DANIEL, of Kentucky, trusted that the amendment would not be agreed to; for, so far as Pennsylvania was concerned, it was perfectly the game of open and shut. It was true, that under the act of 1823 the commissioners had examined and recommended the sites at Beaver and Pittsburg; but they had never examined a great variety of sites in the State of Kentucky, far superior to any others that had been examined in any part of the country. The Falls of Little Sandy (as the reporter understood the gentleman) afforded far superior advantages to the Horse Shoe Bend, or any other site that had been examined: and if commissioners were sent there, he ventured to predict that they would fix on that very spot, to which their attention had never been attracted, as the site for the armory. Mr. D. detailed the advantages of this position, and enumerated the furnaces, forges, forests, and inexhaustible iron

DECEMBER, 1829.]

*Refuse Lands in Tennessee.*

[H. OF R.]

ores of the vicinity; as proofs of the excellence of which location, he said that the best iron was manufactured there that was made in this Union, and cheaper too than in any other portion of the Western country. For this reason he was opposed to the amendment of the gentleman from Pennsylvania, preferring that the whole subject should be left open.

The motion of Mr. GILMORE to amend the resolution was then decided in the negative.

Mr. MALLARY then moved to amend the resolution so as to direct the committee to inquire into the expediency of authorizing the United States to establish an armory at some suitable point on the Western waters.

Mr. VANCE said a few words against the amendment, and expressive of a wish that the whole subject should be left open to the investigation of the committee.

The question was then taken on Mr. MALLARY's motion, and decided in the negative.

Mr. HAYNES, of Georgia, moved an amendment, the object of which was to direct an inquiry into the expediency of a further examination and subsequent location of a site, &c.

And this amendment also was lost.

The question was then taken on the original proposition to instruct the Committee on Military Affairs "to inquire into the expediency of establishing an armory at some suitable point on the Western waters," and decided in the affirmative, *nem. con.*

TUESDAY, December 22.

*Refuse Lands in Tennessee.*

Mr. CROCKETT submitted for consideration the following resolution:

*Resolved*, That the memorial of the State of Tennessee on the subject of public lands be withdrawn from the files of this House, and referred to the Select Committee raised on the subject of the Tennessee lands.

Mr. BLAIR, of Tennessee, observed that the subject of this resolution had been already referred to a Standing Committee of this House, (the Committee on the Public Lands,) and he did not see why it should now be proposed to refer it to a Select Committee.

Mr. CROCKETT said, that, at the last session, this subject had been referred to a Select Committee. He had himself now taken charge of it, and he wanted all the documents to be placed before his committee. He was not aware that it had been referred to the Committee on the Public Lands at all; but he did not see why one part of the subject should be in the hands of one committee, and one part in the hands of another. He did not know what the Committee on the Public Lands could have to do with it, since it had been specially referred to a Select Committee. On that committee were several gentlemen from the Eastern States, who know very little about these

subjects, and he wanted them to have a fair chance. He wanted them to have an opportunity of looking into the whole subject. He wanted these Eastern gentlemen on the committee to be enabled to examine the subject, and make a fair report upon it. He wanted to act honorably himself, and do justice to the Government on this subject; and he did not see any reasonable ground for the opposition of his colleagues to his motion.

Mr. ISAACS said, that as a member of the House, he thought he might truly say, he felt very indifferent as to what course this subject should take. But, as a member of the Committee on the Public Lands, he felt bound to state, that, by the order of the House, the memorial and documents referred to were now in the hands of that committee, and the gentleman's resolution, if agreed to, would, he presumed, be wholly ineffectual. What the sense of the Committee on the Public Lands might be on this subject, he was not authorized to say. It might be that that committee might be disposed to have itself discharged from the consideration of the subject, and have it referred to the gentleman who had taken "charge" of the subject, as if he were the only member from the State of Tennessee interested in it. For himself, Mr. I. said, he did not profess to have taken "charge" of it, but, in what he had said, he acted only as the organ of the committee of which he was a member.

Mr. CROCKETT modified his motion so as to propose to discharge the Committee on the Public Lands from the consideration of the memorial, &c., and refer it to the Select Committee appointed on the subject.

Mr. POLK said, that, at his instance, this subject had been referred to the Committee on the Public Lands, believing that no other direction could properly be given to it. It was presumed that some of the difficulties attending it had been elucidated by the debates of the last Congress, at least to the members of that Congress. He had heard this morning the remark, which he had often heard before, that the report of a Select Committee had not the weight with this House of the report of a Standing Committee, and that was the only reason why, the other day, he had opposed the reference of this subject to a Select Committee. He apprehended that the House had not then understood the objection, or they would not have referred this subject, as they did, to a Select Committee. He would only add, that, after the subject had been debated here at the last session, he had submitted a resolution calling upon the General Land Office, through the Treasury Department, for all the information which it could present on the subject. That information, he understood, had been obtained, and in a short time would be transmitted to the House. Mr. P. added that he trusted that his colleague would not consider that those of his own State, who expressed any views upon this subject, were at all disposed to interfere with



his rights and his privileges here. All that they wished was, that the subject should undergo that consideration which it ought, believing, as they did, that a report from a Standing Committee would carry more weight than a report from a Select Committee.

Mr. CROCKETT said, it was certainly an awkward situation for these papers to be placed in, for one committee to have one part of them in possession, and another committee another part. These lands belonged to the United States, to be sure; but he did not know what the committee on the subject of the public lands generally had to do with them. These stood on a different footing from other public lands. There never had been a surveyor of the United States in the State of Tennessee; and these scraps and remnants, left after the location of the North Carolina grants, stood upon a different footing from the general system of the public lands. His object was, that the Select Committee should propose the most equitable way of disposing of them for the benefit of his constituents and of the State of Tennessee, which, he believed, would be to give these scraps of land to the poor people living on and among them.

The question was then taken on Mr. CROCKETT's motion, as modified, and decided in the affirmative—90 votes to 67.

WEDNESDAY, December 28.

*Fitting Out of the Brandywine.*

On motion of Mr. McDUFFIE, the House resolved itself into a Committee of the Whole on the state of the Union, Mr. MARTIN, of South Carolina, being called to the chair, and took up the bill reported by the Committee of Ways and Means, for making an appropriation for fitting for sea the frigate Brandywine. No objection being made to the bill, the committee rose, and reported to the House without amendment.

On the question of ordering the bill to be engrossed for a third reading,

Mr. McDUFFIE, Chairman of the Committee of Ways and Means, briefly stated the necessity for this appropriation. The fact was known to every member of the House, that the commerce of the United States in the Gulf of Mexico and with South America was subject to piratical depredations; and, also, that the political relations of the Governments of the south were in such a state as required that the United States should maintain a considerable naval force in that sea. The recent loss of the Hornet made it almost indispensable that another vessel should be immediately despatched to supply her place. For this purpose, this appropriation was necessary.

The bill was then ordered, *nem. con.*, to be engrossed, and read a third time to-morrow.

MONDAY, December 28.

*Compensation of Members of Congress.*

The House then resolved itself into a Committee of the Whole, Mr. BUCHANAN in the chair, on the following bill:

*Be it enacted, &c.* That the Secretary of the Senate and the Sergeant-at-Arms of the House of Representatives shall, at the commencement of each session of Congress, obtain from each member the name of the post office nearest his residence, and shall then procure from the Postmaster General an exact statement of the distance to said post office from the seat of Government, computed according to the post road to said post office; after which, he shall add to, or subtract from, the said statement as the case may be, the distance from the said post office to the residence of said member; upon which statement the mileage of each member is to be computed.

"SEC. 2. *And be it further enacted,* That, on the final settlement of the account of each member, he shall subjoin, at the foot of his account, a certificate that he has deducted from his account all and each of the days on which he may have been absent from the seat of Government during those days on which the House to which he belongs may have been in session."

Mr. WICKLIFFE, Chairman of the Committee of Retrenchment, by whom this bill was reported, briefly explained its objects, which are, as appears from the face of it, generally, to establish a uniform rule for computing the allowance for travelling expenses of members, and to limit their per diem allowance to such days as they shall actually be in attendance on Congress.

Mr. HAYNES asked how the gentleman from Kentucky proposed, where there was more than one post road by which a member's mileage might be computed, (as was the case with many members,) to determine by which of those roads the computation of distance should be made. There ought, he said, if the bill passed, to be such precision in its terms, as to leave no doubt as to the manner in which it should be construed.

Mr. WICKLIFFE said that the difficulty suggested by the gentleman from Georgia showed still more the necessity of some legal provision on this subject. If there was a difficulty in determining between post roads as the measure of computation, there was still a greater difficulty where there were river routes, as well as roads, to compute by. In cases where there were various post roads leading to and from the same point, the gentleman from Georgia might attain his object by amending the bill so as that the nearest road should be taken as the criterion. Mr. W. had no objection himself to such a provision, though he would not move it, because, he said, there were some post routes on which there was no convenient travelling, or accommodation for travellers, even on horseback. He did not see, however, why this objection of detail should be an objection to the principle of the bill.

DECEMBER, 1899.]

*Compensation of Members of Congress.*

[H. OF R.]

Mr. HAYNES expressed his regret that the gentleman from Kentucky should have misconceived the motive of the very few remarks which he had made. It was no part of his purpose to interpose any obstacle in the way of the bill. He only suggested a difficulty in its detail, which he wished to see obviated.

Mr. DAVIS, of South Carolina, moved to amend the bill, by inserting the word "shortest," so that the distance should be computed according to the shortest post road.

This amendment was agreed to.

Mr. STRICKER moved to amend the bill, by striking out, where they occur, the words "and shall then procure from the Postmaster General." In support of this amendment, Mr. S. said, that, when we reflect upon the manner in which the distances on post roads are ascertained at the General Post Office, it was probable that the Postmaster General would know as little accurately about them as the members of this House, and perhaps less. The distances upon these roads were more or less uncertain, even where best known; and he believed that the information could be got from the members of the House better than elsewhere, and he thought that credit ought to be given to their statements on the subject. It was a fact beyond dispute, that no certain reliance can be placed on the distances between different post offices, as stated on the Post Office books; and he thought, therefore, that the statements of members ought to be relied upon in preference.

Mr. WICKLIFFE observed, that one main object of this bill was to throw from the members here the responsibility of fixing the amount of their own mileage. That, if they were allowed to fix that, it would involve the exercise of as much discretion as if they were to be allowed for the amount of their own per diem allowance. He knew no better standard, he said, by which the distance of the residence of the members could be ascertained, than the books of the Post Office Department. More universal certainty, he thought, would be attained by fixing the distances in this way, than by leaving the matter to the discretion of the members of the House.

Mr. STRICKER said, that his amendment did not propose to leave this matter wholly to the discretion of each member in each case, for it confined him to stating the distance of the nearest post road to his residence—a responsibility which, Mr. S. thought, ought to be thrown upon him, and him alone.

Mr. BURESS said he would not permit himself to doubt that any gentleman, making a statement to this House, would make it truly; and if any misstatement of distances had been made, he felt bound to presume that it had been made accidentally, and would be corrected as soon as discovered. He could not see the utility of this bill at all, he said, unless it was intended to say, by a solemn enactment of this House, that the members of Congress are not to be trusted in questions in which their inter-

est may come in conflict with their veracity. If, however, facts warranted such an assumption, there might be sufficient reason to justify the passage of that bill. Until some statement of facts, showing grounds for this assumption, should be made on the authority of the committee which reported the bill, he could not be warranted in voting for a bill authorizing such a reflection on the House. He had never heard that any such report had been made by the committee. He had never heard authentically that any gentleman of this House, or of the Senate, had ever taken any more money for mileage than, on a fair calculation, he was entitled to receive. He could not vote for this amendment, therefore, or for the bill, but should be disposed, when the bill came before the House, to move its re-commitment, with a view to obtain from the committee a report of such facts as should show that the bill was not merely justified, but called for, by a due regard to the public interest.

Mr. STONE, of New York, hoped that the amendment would prevail. It was proposed by the text of the bill to impose on the Postmaster General the responsibility of determining the distances which members travel from their residences to this House. This, said Mr. S., was distrusting the veracity of the members of this House. It was, besides, turning over the Sergeant-at-Arms of the House to the direction of the Postmaster General, who is not an officer of this House, and ought to be allowed no control over its officers or its action. The Sergeant-at-Arms was responsible to the presiding officer of this House; and why was he to be turned over to an officer not responsible in any manner to this House? Why rely upon him, and take away the supervising power of the Speaker of this House? Mr. S. hoped that the amendment would prevail, and that the subject would be left in charge of the officers of this House, as it now is, and to whom it properly belonged.

Mr. WICKLIFFE, in reply to the gentleman from Rhode Island, who said that he could not vote for the bill, because the committee which reported it had not reported a statement of facts, stated, as a member of the committee, that the facts of overcharge of mileage by members was within the knowledge of that committee. He felt no disposition, as a member of the House, to present, in a specific report, the names of individual members, who, under the law of 1818, had drawn an undue amount of mileage, but he now stated the fact generally, that a practice had obtained in this House, as its records would prove, by which members from the same State, and the same neighborhood, have been in the habit of computing their mileage differently, some by water and some by land. It was believed by the committee that there should be some uniform standard by which this mileage should be computed. He alluded to the fact, within the recollection of gentlemen near him, that, in

the year 1828, the practice first began in this House of charging mileage by the river route; since when, the practice had been gradually extending itself. At that time, a gentleman, not now a member, claimed the privilege of charging for the distance of descending the Mississippi, ascending the Ohio, and thence by land. Nor was it for that session only that the charge was made; for he went back six preceding sessions, and claimed and received the same rate of allowance. This fact would be shown by the accounts now on file in the Treasury Department. Nor was this, said Mr. W., the only instance of such charges. We (the committee) then conceived, that, whilst we were complaining of constructive journeys, and charges for journeys never made, &c., on the part of other public agents, it was proper, from a regard to consistency, that we should at least put a stop to this business of constructive journeys among ourselves. The act of 1818 declaring that the computation of the distance of travel of members of Congress should be made by the most usual route, the computation of the circuitous river route was a plain perversion and abuse of the law. To remedy this evil, the committee thought it best to give to the Postmaster General the power to determine the distances. If the amendment now under consideration should prevail, by what criterion will the officers of the House be governed in ascertaining the nearest post road? It will not do, said he, to tell us, with the facts before our eyes, that the decision of each member, in his own case, will be an infallible test. For the same reason, we might leave the whole subject of compensation open. But, said Mr. W., we propose to take from the member the privilege of fixing, at his own will and pleasure, the extent of his compensation. If the House should require from the committee a statement of facts, they would discharge that duty rigorously, as far as they could. They would ascertain what were the actual distances of the post offices near which members reside, and report the sums which each had received for mileage. But they had not conceived this necessary. They wished to make no implication of individuals, but simply to provide for carrying into effect the intention of the act of 1818.

Mr. COULTER vindicated the committee from the suggestion of their having presented this bill unadvisedly to the House. All the facts on which this bill is founded (he said) were distinctly stated in the report of the Committee of Retrenchment at the session before the last, when a bill was reported to the same effect as this, but not acted on for the want of time; as, too, was the case with the same bill at the last session. If the facts stated in that report were true, (and that they were true there could be no doubt, for they had not been questioned,) it was important that some remedy should be provided: for, it appeared, either that the law was defective, or that, in the execution of it, abuse had crept into the proceedings of the

House. He presumed, now that the evil was so clearly pointed out, the presiding officer and subordinate officers of the House might correct it, and the passage of the bill might therefore be said to be unnecessary. But, inasmuch as the attention of the House, and through the report of the Committee of Retrenchment, that of the nation, had been heretofore attracted to the subject, it would be as easy now to pass the bill, if it affords a remedy, as to reject it. That the bill does afford a remedy, (he said,) could not be denied. It must be admitted, as argued, that this law, too, may, in course of time, come to be abused. What human law cannot be abused? You cannot place a barrier to human ingenuity or error. The only question is, does this bill offer a competent remedy to an admitted evil? On that subject there can be no question: for, if it passes, a computation of distance by water courses can never be substituted for a computation of distance by land. It was comparatively indifferent to him, (he said,) whether the proposed amendment prevailed or not: but, if it did, the distance of travel, and, of course, the amount of compensation for it, would still be left in each member's own breast. He meant no imputation on members of Congress; but (he said) all laws go upon the presumption that man is not a competent judge or witness in his own case: and it was assuming too much for this House to ask for its members exemption from this rule of law, established and practised upon in all civilized nations. The rules of this House have already made all the imputation upon members which can be inferred from this bill, by excluding any member from voting upon any question in which he is personally interested, &c.

Mr. TAYLOR, of New York, said that one of the present rules of the House, in stating the duties of the Committee of Accounts, says "it shall be the duty of the committee (among other things) to audit the accounts of the members for their travel to and from the seat of Government, and their attendance in the House." As far as he was advised, (Mr. T. said,) the practice of the presiding officer always had been, when any difference arose between any member and the Sergeant-at-Arms as to compensation, &c., to refer the question for decision to the Committee of Accounts, and to settle with the member according to the decision of that committee. He knew that this had sometimes been the case, and, as far as he was advised, it had always been the case. The Speaker had not been at liberty to decide such questions, since they were thus, by rule, especially referred to another organ of the House. My own choice would be, (said Mr. T.), thinking, from the statements which have been made, that a remedy is required, instead of imposing the duty on the Postmaster General of fixing the distances, so to amend the bill as to require the officers of the House to procure the necessary information. After requiring that the shortest post road should be the standard of compute-

DECEMBER, 1829.]

*Compensation of Members of Congress.*

[H. OF R.]

tion, I would leave it to the officers of the House, under the direction of the proper committee, to ascertain the distances.

The question was then taken on Mr. STERRE's amendment, and decided in the affirmative, 60 votes to 46.

Mr. SIMMONS, of Maryland, moved to strike out that part of the first section which follows the word "post office" in the ninth line, as above. He thought this was descending too much into minutiae, giving much trouble without any practical benefit.

The motion was not agreed to.

Mr. WICKLIFFE moved an amendment of a proviso to the second section, exempting members detained from the House by known sickness from the operation of this section.

With these amendments, the bill was reported to the House.

A motion was made by Mr. VERPLANCK, that the House do reconsider the vote taken on Thursday last, the 24th instant, on the question to agree to the following resolution, moved by Mr. CARSON, viz:

*"Resolved, That a Select Committee be appointed to inquire into the expediency of establishing a branch of the United States Mint in the gold region of North Carolina."*

And on the question, "Will the House reconsider the said vote?" It passed in the affirmative.

Mr. CARSON rose, and said that he had been induced to offer the resolution from various considerations, one of the most important of which was, the highly interesting information he was induced to believe would be elicited by such an inquiry. That it will prove necessary to establish a mint in North Carolina, to the extent to which such an establishment now exists in Philadelphia, he was by no means prepared to say; and were he to hazard an opinion, as at present advised, he would say that it would not be necessary. A branch, however, of the Mint might be found necessary. For instance, (said he,) an office under national authority, connected with a mother institution, to assay our metals, and show us their correct value—to stamp our bars of gold, and prepare them for a circulating medium, or as an article of deposit, upon which circulating medium might issue. This would also prevent frauds from being practised: for, while it would show the owner the real value of the metal, it would also secure the purchaser from frauds, such as mixing alloy with the gold, which otherwise would be difficult to detect. In a word, (Mr. C. said,) the inquiry would do no injury, while there was a probability of its doing good, for any report made by the committee will be subject to the future action and control of the House.

When I introduced the resolution on Thursday last, (said Mr. C.,) I will not disguise the fact that I felt considerable solicitude for its passage. But, sir, my anxiety has in a degree

been diminished, not that I deem the inquiry less important, but because I observed an honorable colleague (Mr. CONNER) voting in opposition to the resolution. For that gentleman, sir, I have always, since our first acquaintance, entertained the highest personal respect, and so also have I for his opinions: and, sir, from a knowledge of the fact that no part of the State is more deeply interested in all subjects connected with the precious metals than the district represented by my colleague, (for, sir, the greatest proportions, as yet, have been found within his district and by his constituents,) I am constrained to believe that important considerations have induced his opposition. What those considerations may have been, I have not been able to learn, and it may be that his withholding them from the House has resulted from his kind feelings towards me, wishing rather to cover than expose the defects of my proposition. Should this be the case, sir, I certainly thank him. Mr. CARSON concluded his remarks, by tendering his thanks to the House for agreeing to the motion for reconsideration, and, as no injury could result from a mere inquiry, hoped the House would adopt the resolution.

Mr. A. H. SHEPHERD rose, and remarked, that, as his colleague had made an individual allusion to a member from North Carolina coming from the gold region, and being himself from that desirable country, he wished to know whether the remarks of his colleague were intended for him, [Mr. CARSON explained, and said his allusion was to his colleague representing Mecklenburg—that he did not know how his colleague now making the inquiry voted on the question.] Mr. SHEPHERD continued by saying, that, owing to his bad health he was necessarily absent at the time the resolution was offered and rejected: had he been present, he should have voted for its adoption, not merely because it happened to come from a colleague, and to embrace a subject interesting also to his own constituents, but from a belief that, upon a mere question of inquiry, it was the more courteous, if not indeed the more prudent course to accede to the proposition, unless it be absurd in itself, or clearly adverse to some established rule of legislation. Should the resolution be adopted, the committee raised upon it would doubtless elicit much information, interesting not merely to the country in which the precious metal is or may be found, but to the nation at large; and even if the inquiry proposed should not at this time result in a transfer of a branch of the Mint (that powerful attribute of Government) to the region proposed, yet it cannot but be important, in a national point of view, to have authentic information as to the probable capacity of any portion of our country to produce this important basis of the circulating medium. I repeat, sir, that, was there not (as indeed I think there is) a manifest importance in the proposition, courtesy to the mover would, in my humble opinion, be a sufficient reason to

lead to its adoption. I would, Mr. Speaker, have preferred that the terms of the inquiry had been more liberal in their character, by embracing also the States of Virginia, Georgia, and South Carolina; in all of which gold also is found, though by no means so extensively as in the State from which I come; for, whenever, sir, any inquiry is proposed here, relating to any particular interest in our country, I am not for confining it to my own State or immediate district, but would embrace also any other portion of this Union where the same interest is known to exist. But without waiting to cavil about the terms of the resolution, permit me to hope that it may be adopted in its present form.

The question was then taken on the resolution moved by Mr. CARSON, and decided in the affirmative.

TUESDAY, December 29.

*Distribution of the Public Lands.*

The House resumed the consideration of the resolution moved by Mr. HUNT, of Vermont, on the 17th instant, proposing an inquiry into the expediency of appropriating the net annual proceeds of the sales of the public lands among the several States and Territories, for the purposes of education and internal improvement, in proportion to the representation of each in the House of Representatives.

The question being upon agreeing to the motion of Mr. MARTIN, of South Carolina, so to amend the resolution as to direct an inquiry also "into the amount and value of the public lands which have been given by Congress to any State, or to any public institution in said State,"

Mr. MARTIN said he was indebted to the kindness of the gentleman from North Carolina, (Mr. SPEIGHT,) who yesterday moved the postponement of this resolution, and to that of the House, which agreed to it, because of his casual absence when it was called up. The subject of the resolution (he said) was one of great delicacy, and respecting which he felt much difficulty: it was one of great public importance, also, and in which the people take great interest. He knew of no subject on which, at this moment, public opinion was more divided, or on which public inquiry was more excited. It seemed to him, therefore, before deciding anything in reference to this question, it ought to be examined with much deliberation and with great caution, that nothing might be done in regard to it which should produce confusion or difficulty hereafter. He had so fully believed that the subject was laid upon the table for the remainder of the session, that he had not prepared himself, as he otherwise should have done, for entering freely into the discussion of it. He had intended to prepare a statement showing the amount of the public debt, for the payment of which the public lands were pledged: for, though he entertained no doubt that

the public debt might be paid from other sources, there was still an indelicacy in touching upon the security which had been given for the payment of that debt until it should be redeemed. Whatever may be our ability to discharge the public debt according to our obligations, (he said,) the proposition to alter the security for its payment certainly ought to come from any other quarter than that by which such security had been given. The precise amount of debt for which the public lands stand pledged, he was not, for the reason already given, prepared to show; but that it does stand pledged in this manner, no one would question. Mr. M. went on to say that he was opposed to the whole object of the resolution; he should be so if the amendment which he had proposed should be adopted: but, if the mover and supporters of it were serious in their proposition for the distribution of the proceeds of sales of public lands according to representation in this House, or according to any other ratio, they ought to recognize the principle to its full extent; which would require that those States which have already received a large portion of the public lands should receive of the residue only in their due proportion.

Mr. HAYNES, of Georgia, said, that he, too, with the gentleman from South Carolina, had supposed that this resolution had been laid upon the table for the remainder of the session. Without going into the subject at all, he rose to suggest that this subject had been already referred to one of the select committees appointed upon the President's Message. [At his request, the resolution was read referring so much of the Message as relates to internal improvements, and the distribution of the surplus revenue, after payment of the public debt, among the several States.]

Mr. PERRIS, of Missouri, regretted that the resolution now under consideration had been offered, and he regretted, also, that the gentleman from South Carolina, (Mr. MARTIN,) had thought fit to offer this amendment. Whatever his opinions might be in relation to the proposition for making a distribution of the net proceeds of the public lands among the several States according to their representation in this House, he thought the present an improper time to make the inquiry proposed. The resolution seemed to contemplate an immediate distribution. The public lands were pledged to aid in the liquidation of the public debt; and he asked gentlemen, if this plan were immediately carried into effect, whether it would not embarrass the Government in its views in paying off this debt. The offering of this resolution was to be regretted on another account. It was expected that some improvement in regard to the mode of disposing of the public lands would be attempted, and he feared that the plan proposed by this resolution would throw difficulties in the way of that measure. Sir, the people of the new States desire to see some reasonable prospect for the arrival of the

DECEMBER, 1829.]

*Distribution of the Public Lands.*

[H. OF R.]

period when the title of the United States to lands within their several limits may be extinguished. They thought that some better mode might be provided for, which would be better for the Government as well as the new States. He said he regretted to see the excitement which prevailed in this House on this subject; and he supposed from this that the public mind was also excited. It did appear as if gentlemen considered this a mere scuffle for the public lands, who should get most. And while he thought that some improvement could be made in regard to the mode of disposing of the public lands, he could assure the House, that on this, as well as every other subject of legislation, he should, while attending to the interests of those he represented, not be unmindful of the interests of the United States.

Mr. REED, of Massachusetts, said, it had been remarked that this subject excited more of the public attention at this moment than perhaps any other. If so, did it not become the more the duty of the House to examine it? As to the proposed amendment, (Mr. R. said,) he had no disposition to retrospect in this matter, considering the argument to be correct, generally speaking, that the gifts to the new States have not diminished the value of the public domain, but that they have increased the value of the remainder sufficiently to compensate for the loss of what has been given away. As coming from one of the old States of the Union, (Mr. R. said,) he claimed nothing, and wanted nothing, for the past. But, as regards the future, the disposition of the proceeds of the public lands was a question which presented much difficulty, and should be met unencumbered and unembarrassed. He thought the amendment wrong, therefore, because it tended to embarrass the main subject. When a proper occasion should offer, of so much consequence did he deem the main purpose of the resolution, he should move to refer it to a Select Committee, rather than to the standing committee, which is already too much burthened with business to give to this question the attention which its importance demands.

Mr. MALLARY, of Vermont, was in favor of the amendment, and gave his reasons for being so. What, he asked, was the object of the resolution? To inquire into the mode of disposing, for the future, of the proceeds of the sales of public lands. We all know that Congress has, from time to time, made disposition of portions of them, sometimes in answer to the demands of justice, sometimes in liberal donations towards the accomplishment of useful public objects. The question presented by the amendment is, whether the committee shall be charged with an inquiry into the amount of donations which have been thus already made to different States. He was in favor of the amendment, because it would enlarge the scope of inquiry. He should vote for it, to disembarass, and not to embarrass, the inquiry, as some gentlemen seemed to suppose it would. If

the amendment were rejected, what would be the effect? The gentleman from South Carolina would institute the inquiry in a different form, and ultimately it must and would connect itself with the main inquiry. Was it not more important that the House should have this information in the outset, than have it called for in a later stage of the proceedings? Whether these grants of land heretofore ought to be taken into account or not, in any arrangement for the future, was a different question. He was for having all the information, which was or would be asked for, at once; for (said he) meet this question we must. We have got to hear it; and the more we can anticipate the difficulties which are likely to embarrass it, the better.

Mr. DUNCAN, of Illinois, said, he was perfectly willing to see a full investigation of every subject which relates to the public lands. He cared but little about the resolution, or the amendments offered by the gentleman from South Carolina, (Mr. MARTIN,) although he was opposed to the general object. His object in rising was to notice some of the remarks of the gentleman from South Carolina, and those made by the gentleman from Vermont. He said that the gentleman from South Carolina, and other members of the House, appear to misapprehend the objects, or considerations, received by this Government for the grants of land, or donations as they are called, which have been made to the new States. He said that the largest portion of those donations, as they have been styled, was the school lands, or the sixteenth sections given to the inhabitants of each township for the use of schools to be established in said township; and as these lands have always been appropriated before the sale, they have been justly considered as a part of the consideration, and an inducement to the purchase of all the remaining lands in the township; and so far from their being a donation to the States, they have been, and are selling to the inhabitants of the townships in which they lie.

He said that some small grants of land had been made to the new States by the General Government when they received their admission into the Union; but they were made upon the express condition that those States would never tax the public lands within their limits, nor those sold by the General Government within five years after the sale. Surely (he said) this is no donation, it is a fair bargain, and the new States have much the worse part of it, as they have given up a right which would be worth more to them now than a hundred times the quantity of land they have received. He said that it was a fact, which could not be questioned, that the new States would now have the power to tax all the lands, public and private, within their bounds, if they had not bartered away their right to do so for a few acres of land, and some other equally unimportant considerations. He said that those

lands had been purchased by the surrender of all right to levy a tax, which would have amounted every year to more than the land is worth. He said, if it should be determined now to charge these new States with this land, (and the proposition to give an equal quantity to each of the old States before the contemplated division takes place, is, in effect, to do so,) he hoped that the new States would be restored to their natural rights—the right to tax and exercise a sovereign power over their own territory, which in a single year would be worth more to the new States than all the lands in question.

Mr. D. said that the gentleman from South Carolina could not certainly be acquainted with the situation of the new States, and their peculiar relation to the General Government, or he would not have raised a claim by the old States for those lands which have been given to some of the new ones, to assist them in making internal improvements, such as roads and canals. He said that it was a fact well known to every man of common observation, that every valuable improvement in a country, such as a road or a canal, is calculated to increase the value of the lands through and near which they are constructed; and as the General Government owned much the largest part of the land in the new States, and especially where some of those improvements are to be made, he thought he should hazard nothing in saying that, in every instance where the improvement is made, the increased value of the public lands occasioned exclusively by the improvement will amount to ten times the value of the donation. He said that a policy which would be wise in an individual owning large quantities of wild land, would also be wise in a Government; and he appealed to any gentleman to say whether he would not consider a portion of this land well appropriated in this way, when there was a certainty of its hastening the sale, and increasing the value of the residue.

Mr. D. further said that the United States were bound by every principle of common justice to contribute something to the improvements which were making, and contemplated to be made, in the new States, as every canal, road, or bridge, made in those States, had a direct tendency to increase the value of the public lands. He said that about eighteenth-twentieths of all the lands in the State he represented belonged to the General Government, and that his constituents were burthened with a heavy tax to construct roads and bridges, which, though necessary to their own convenience, had a direct and certain tendency to raise the value of all the lands over which they are made. He said he knew the States had no power to compel the General Government to contribute its part to these improvements; but he hoped that a sense of justice would prevent its receiving such advantage without contributing its full portion towards it. He said that all the old States had the power of taxing the

lands over which they made roads or other improvements, and that the holders of land rarely complained of a tax of this kind, as it generally gives a great increase to the value of their estates. He said that there was a county in a remote part of the State of Illinois, containing about ten thousand inhabitants, all of whom are tenants of the United States, and pay near fifty thousand dollars per annum tax or rent to the Government; and he supposed no one could think it reasonable or just that those people should be burthened with an additional tax to make roads in a country where every foot of land is owned by this Government. Mr. D. regretted to hear the reasons given by the gentleman from Vermont in favor of this proposition. It was true (he said) that some individuals, and one State, had asserted a claim to all the public lands, but he did not believe that any large portion of the people would sustain any pretension of that kind. He said he believed his constituents would be satisfied with having their just and reasonable claims satisfied, which were, that the price should be reduced, and the sales so regulated as to enable all the settlers to obtain their homes on reasonable terms.

WEDNESDAY, December 30.

*Distribution of the Public Lands.*

The House resumed the consideration of the resolution moved by Mr. HUNT, of Vermont, proposing to direct an inquiry by the Committee on the Public Lands into the expediency of distributing the net proceeds of the sales of public lands among the several States for the purposes of education and internal improvement.

The question being stated on agreeing to Mr. MARTIN's proposed amendment, for directing the committee to report the quantity of lands already granted to each State by the General Government,

Mr. POLK, of Tennessee, said that, from the time which had been already occupied in the discussion of this resolution, proposing an inquiry merely, it must be evident not only that this discussion is premature, but that it is not likely to arrive at any profitable end. It was admitted by those who supported the resolution, that it is not expedient to make this distribution, at all events until the public debt shall have been paid. That the public debt will not be paid for several years to come, was known to every one, and therefore this discussion was premature. Another reason against entertaining the resolution at present, was, that the whole subject of the distribution of the surplus revenue, after the payment of the public debt, had been brought to the notice of Congress by the President of the United States, and was now under consideration before a committee of the House. When this whole subject was thus before one committee, why should

DECEMBER, 1829.]

*Distribution of the Public Lands.*

[H. OF R.]

this part of it be referred to another committee? Another reason against the present discussion was that, that if it should be the policy of the country, after the public debt was paid off, to levy more taxes than the Government should require for the ordinary administration of public affairs, and the question should be between the present plan of internal improvement and the proposed plan for the distribution of the public revenue, he was free to say that, between the two modes, he should prefer the latter. But this was a question which it will be time enough to argue when it shall actually have arisen. It might be, possibly, that, when the public debt should have been paid off, there would be no surplus revenue, and no occasion for this absorbent process.

Mr. BUCHANAN said: The House is placed in a singular position in regard to this resolution. The course pursued by its friends has been unfortunate. Upon this resolution, which merely proposes to institute an inquiry before a committee of the House, the skilful tactics of the gentleman from South Carolina, (Mr. MARTIN,) have involved us in such a debate, as can only become proper in case the committee should report a bill for the division of the net proceeds of the public lands among the States in proportion to their population, and that bill should be before the House for discussion. Yet, in this preliminary stage of the business, we have been drawn off from the main subject of inquiry, and have been seriously engaged in discussing the question, whether the new States, who have hitherto received donations of public land from this Government, shall account for them in the general distribution. The gentleman from South Carolina, who proposed this amendment, has frankly avowed, that, whether it prevailed or not, he would vote against the resolution. Such is my regard for that gentleman, and of such value do I estimate his support, that I might be willing to sacrifice something of my own opinion to secure it; but when he proposes to amend our resolution, and informs us, at the same time, he will oppose it in every shape, we ought to view his amendment with jealousy and distrust.

"Timeo Danaos, et dona ferentes."

Without being drawn into an argument upon the subject, it is my decided opinion that it would be both unjust and ungenerous to charge the new States with donations of land which they have already received, and that an inquiry into the expediency of such a measure could only tend to distract and divide the friends of the resolution.

What (said Mr. B.) is the true and the only proper question for discussion at this time? It is, whether the subject of the resolution is of sufficient importance to demand inquiry. Upon this question can a doubt be entertained? The vast importance of the measure proposed must be impressed upon every mind, whether we regard its consequences to the people of the old

or of the new States of this Union. The public feeling of the country is alive to the subject. And shall such of us as are friendly to its thorough investigation suffer inquiry to be stifled? I trust not.

The report of the Select Committee of the House, at the last session of Congress, has furnished us all the statistical information upon the subject which can be desired. There are two important questions which that report does not embrace, and which ought to be carefully investigated by a committee of this House. I desire to have a report from such a committee, upon the question whether the proceeds of the public lands are pledged in such a manner to the public creditors, that, without violating our faith, we cannot distribute them among the States until after the total extinguishment of the national debt. In the course of the debate the affirmative of this proposition has been stated with a degree of confidence which would almost seem to preclude doubt; and yet there are probably strong reasons to sustain a contrary opinion.

It is very true, that, when the funding system was first established in 1790, the proceeds of the sales of the public lands were directed to be applied solely to the extinguishment of the debt of the Revolution; but it is equally certain that this pledge was often disregarded. In the year 1817, when the present sinking fund was established, all previous laws which had made appropriations for the purchase or payment of the funded debt were repealed. That fund of ten millions of dollars annually, for the discharge of the public debt, was to be raised from the import and tonnage duties, from the internal duties, and from the sales of Western lands. It may be (said Mr. B.) that the obligation imposed by this act will be equally satisfied, whether the annual sinking fund shall be provided from one or from all these sources. Such was probably the opinion of Congress, when, in less than one year after they had created this fund, they abolished all the internal duties, and thus cut off one of the sources from which it was to be supplied. I wish to express no decided opinion upon this question; but it is certainly well worthy of investigation by a committee. Its proper understanding and correct decision may aid us much in arriving at a just conclusion in regard to the main question.

Mr. B. wished to be distinctly understood, that even if we could, consistently with the public faith, at once distribute the annual proceeds of the public lands among the States, he had not for himself determined whether it would be expedient to do so until after the national debt should be discharged.

There is (said Mr. B.) another important question involved in this inquiry, on which I desire to have the report of a committee; and that is in regard to the constitutional power of Congress to make the proposed distribution among the States. The power to distribute the



proceeds of the public lands among the States to which they now belong, is, in my opinion, very different from that of distributing among them the surplus revenue arising from taxation. I purposely refrain from entering upon the discussion of this question at present; but I think I might appeal with confidence to the gentleman from South Carolina, (Mr. MARTIN,) whether there is not an obvious distinction between the two cases. A gentleman might, with perfect consistency, admit the power of Congress in the one case, and deny it in the other.

Mr. B. said he thought this resolution ought not to be referred to the Committee on the Public Lands, as the mover of it (Mr. HUNT) had proposed. Highly as he respected that committee, it was well known they were chiefly selected from the members representing that portion of the Union within which the public lands were situated, and who were therefore best acquainted with the laws which related to them. The subject proposed to be referred was one of deep and general interest to every State. In his opinion, a Select Committee, composed of members from different portions of the Union, should be raised for the purpose of investigating it. The subject involved important questions in regard to the construction of the constitution and of the laws of the country, which did not appropriately refer themselves to the Committee on Public Lands; and the information peculiarly within the province of that committee, we have already received from the report of the Select Committee raised at the last session.

Mr. B. said he thought the present the peculiar and the appropriate time for inquiry. The country were expecting, nay, they were demanding it. Are we prepared to stifle this inquiry? Are we prepared to declare that we do not think this important subject even worthy of a reference? Such, he trusted, would never be the determination of the House; and he was convinced the friends of inquiry would never be diverted from their purpose, until they had obtained all the information necessary to enable them to act with wisdom.

Mr. B. said he would read a substitute for the resolution proposed by the gentleman from Vermont, (Mr. HUNT,) which was in accordance with the remarks he had just made. He trusted it would be acceptable to that gentleman. He knew that, under the rules of the House, he could not at present offer it as an amendment; and if he could, he would not, because his time was already too much occupied on the committee of which he was already a member, to make him desire to be placed on the Select Committee to which this subject ought in his opinion to be referred.

Here Mr. B. concluded by reading the following:

*Resolved*, That a Select Committee be appointed, to which shall be referred the report of a Select Committee made to the House of Representatives the 25th February last, relating to the distribution of the net proceeds of the sale of public lands

among the several States, in proportion to the population of each; and that the said committee be instructed to inquire, and report to this House, whether there be any provision of the constitution, or of any act or acts of Congress, in relation to the discharge of the public debt, which ought to prevent Congress from making such distribution, and that the said committee have leave to report by bill or otherwise.

Mr. TIER, of Indiana, said: Coming from the part of the country where I do, and where a question of this kind so vitally affects the interests of my constituents, it will be expected that I should say something upon the subject. Indeed, I should think myself derelict from my duty if I were to remain silent. The amendment, sir, looks forward to the general operation of the original resolution. I shall, therefore, be necessarily led into the examination of the principles of the latter, to come fairly at the effects of the former. What, sir, is the question before the House? The first or original proposition is to appropriate the net proceeds of the public lands towards internal improvements and the promotion of learning, to be divided among the States according to their representation in Congress. The amendment offered by the gentleman from South Carolina proposes an inquiry into the quantity and value of those lands, in order, as I understand it, to a division among the States, with a view to come at a fair settlement as he calls it; and that those States, who have received a portion of those lands, may be charged in the account current with what they have received. It is necessary to look into the motive or consideration which induced the State of Virginia, and others, to cede their wild lands to the United States; and then to see if the proposition now before the House is calculated to promote the grand object which those States had in view when they made these cessions; and the determination of this point will test the utility of the measure. It is considered, on all hands, that one of the motives was to enhance the resources of the Federal Government, which were at that time very limited indeed, and to enable them to discharge their obligations to their creditors; but, sir, I am very far from believing this was the most prominent or urgent motive. There were higher and more important considerations. The prime object of all was, to maintain and secure a continuation of the confederation. Virginia possessed almost as much territory as any two or three of the other States, and it was readily seen that, in a course of time, an increase of population must give her a vast ascendancy over the balance of them. Looking with a philosophic eye through the course of events, it was not difficult to discern that the growing greatness of an individual State, already the most powerful in the confederation, would be calculated, in the very nature of things, to create fears and jealousies in the smaller States, which might, in time, grow into discontents and bickerings, which, being fostered by those fears and

DECEMBER, 1829.]

*Distribution of the Public Lands.*

[H. OF R.]

jealousies, would lead directly to a dissolution of the Union or confederation. The prime motive, then, must have been to provide against that event, by reducing the amount of territory in the larger States, and limiting their size as near to an equality as possible, thereby to produce a balance of power in some measure like that of Europe. Passing, for the sake of brevity, over all the intermediate steps, and without adverting to further evidence, it must appear clear to any gentleman in the House, that that must have been the most powerful inducement or motive (and truly patriotic it was) in the larger States to make this great sacrifice of their power and resources; which, coupled with the idea of doing justice to their creditors, and relieving the confederation from its distressing embarrassments, form the consideration upon which these lands were ceded to the General Government; and I hold it to be the duty of Congress to sacredly regard this consideration in all its legislative acts, and to promote the generous and benevolent views of the States in making those enormous though necessary sacrifices. Let us see then whether the amendment to the resolution which forms the proposition before the House is calculated in its consequences to promote that great and magnanimous object. So far from doing so, I view it as the most dangerous proposition that ever was agitated in this House, or brought before this nation. What is it, sir? It is to divide the public lands among the different States, and to require the new States to answer, and pay for all the appropriations made by the Government towards their improvement, while you have reaped the benefits of those improvements to a much greater degree than they. You have furnished the capital, we have done the labor, and we are now to be called upon to pay back all that we have received, after doing the labor for you. How are you going to make this calculation of value? what is to be the standard? where are you to begin? at what point of time? shall it be calculated for the future? will you make it as of now, or shall it be *nunc pro tunc*? We are very gravely told by the gentleman from South Carolina, that to talk about the benefits the United States receive from these appropriations for improvements, is the most fallacious and preposterous idea he ever heard suggested. Let us see if it be so silly and fallacious as that gentleman supposes. What is the effect of those appropriations and improvement of the country? Do they enhance the value of your lands, or do they not? Do they not induce population to flow in by hundreds of thousands? Are they not the means of selling thousands and millions of acres of your land, which would otherwise lay waste and wild? Does not this add to the resources of our country, besides augmenting the value of the lands? To reduce to practical results the argument of the gentleman, I will make such a calculation as I suppose he would ask the committee to make, and see whether he be right or wrong. Shall

we make it at the minimum or maximum price? Sir, I presume the gentleman would calculate them at the price which they sold for. I will gratify him in making it so: then, suppose, by your appropriations and our labor, the lands shall bring ten dollars per acre, do you gain nothing? And the more labor we add to the appropriation, the more it enhances the price, and we are to be charged at that price. Sir, it amounts to this, the more labor we do, the more we have to pay; the more money you receive in consequence of our improvements, the more we have to pay you—we could have purchased the land of you at the minimum price, but in consequence of receiving it as a donation (as the gentleman would call it) we have to pay three prices. It is a valuable gift to you, but it beggars us—and I should say, take back your "Deganire," take back your fatal gift, it is poisoned. Sir, it is like a man laying out a town, and selling his lots for a high price, and afterwards calling upon the purchasers to pay him for the streets and alleys which he had laid out. You have been cunning enough to give, and we silly enough to receive. Sir, it is reversing the whole order of things, upon this calculation the less we have of your gifts the better. Poor Indiana, there is a terrible day of reckoning coming; she has been silly enough to receive some of your gifts; and on the great day of reckoning, if it shall be found that she had received more than her share of the lands, she must pay up the balance; and how is she to do it? Sir, she never will do it, no new State will do it; and to enforce such a proposition would be to strike them from the confederation and dissolve the Union.

Do you believe, sir, that the new States would stand and look on, and see you carrying away the fruits of their hard labor, without a struggle to prevent it. It would take away every motive in them to remain a part in the confederacy, every ground of attachment to the Union, and cause them to look to their own resources for protection. I have said that your appropriations had been the inducements to thousands to emigrate to those new States. They have broken up, and left their homes, to seek a home in the wilderness, allured by your deceitful gifts, and, after arriving there, they find themselves called upon to pay back the pretended boon. What will they say to you? Would they admire your justice, or would they despise your avarice and fraud? Sir, I have inquired at what point of time will you refer this calculation of value and division of the spoil. Will you commence at the present period? Will you go back to the time when those lands were ceded to the States? or will you refer it to some point of time in advance? If you refer it to the time when the cessions were made, little Delaware would receive as much as any of you in the general distribution, for she had as many representatives in Congress then as New York; and would she not contend

with you that that was the correct principle? She had then, and has yet, all the burthens of sovereignty to support, without the means of the other States; and the lands being a gift to you at a time when she had as much right in the confederation as any of you, it would seem an argument in her favor to fix the division, or allotment, at that point of time. The object of the trust having now expired, and the trustees about to take the estate into their own hands, and appropriate it to their own use, it seems to me it would be equally if not more just to distribute it according to the situation and relation in which the parties stood at the time of its creation. I say, by this sort of distribution, Delaware would get a share. Suppose you refer the calculation and distribution to the present time, how would it stand? What would Delaware get? However, sir, I will pass by this part of the subject for the present, and take another view of it. Sir, I shall never consent, nor will my State, or the new States generally, consent to stop here with the division, calculation, or distribution. We must go the whole, or perchance we shall not be able to pay you for the liberal donations you have made us; and where will be the justice of distributing a part of the public domain without the whole?

*Congress Mileage and Compensation.*

The question being upon concurrence in the amendment reported by the Committee of the Whole, the object of which is to strike out that part of the bill which places the calculation of distances travelled under the direction of the Postmaster General,

It was decided in the affirmative.

On motion of Mr. WICKLIFFE, the bill was further amended, so as to require the proper officer of the House to obtain from each member the place of his residence, and then, with the aid of the presiding officer of each House, to ascertain and fix the distance, &c.

Mr. TAYLOR, of New York, adverting to the second section of the bill, (requiring from each member, at the close of each session, a certificate of the number of days he may have been absent from the seat of Government,) expressed the opinion that (this principle being introduced into the bill) it ought to be still further amended, so as to make it effective to secure the attendance of members at the sitting of the House. This would not be accomplished by requiring an account of days of absence from the seat of Government, because, in legal phraseology, the seat of Government includes the whole ten miles square of the District of Columbia. To make the provision of the bill more definite, therefore, Mr. T. moved to amend the bill so as to require from each member a statement of the number of days that he should have been absent from the sittings of the House.

After some observations between Mr. WICKLIFFE and Mr. TAYLOR, this amendment was agreed to.

Mr. TAYLOR then moved further to amend the bill, so as that the computation of distance of the residence of members should be by the shortest road, instead of the shortest post road—on the ground that the post road was frequently not the nearest or most convenient road for travelling to a given point.

After some observations between Mr. WICKLIFFE and Mr. TAYLOR, this motion was negatived, 100 votes to 50.

Some further verbal amendments were made to the bill, on the motion of Mr. STORES, of New York, Mr. TAYLOR, and Mr. HAYNES.

Mr. CARSON moved to strike out the second section of the bill; upon which motion the mover, and Mr. WILDE and Mr. WICKLIFFE, made some remarks, the first and last of these gentlemen at considerable length. When

Mr. SPEIGHT, of North Carolina, moved an adjournment. This motion was negatived.

Mr. LETOCHER, of Kentucky, said, that with the greatest pleasure he would have accorded with the request of the gentleman from North Carolina for an adjournment, were it not for what he believed an unnecessary consumption of time which it would have occasioned. This House (said Mr. L.) has been already four days engaged in vain debate on a plain and simple proposition. An evil is admitted by all to exist in the variant computation of the mileage of members, and a bill is before us to make the construction of the legal provision on this subject uniform: and, somehow or other, great difficulties seem to stand in the way of the passage of this bill. But when we take into consideration the word "retrenchment," that powerful and magical word, so much the favorite of my colleague, and his idea of its beginning "at home" by the passage of this bill, with a view to that object I would earnestly recommend to him the saving of time. Time, sir, itself is money, and we ought to economize it. And, although it may be due to that gentleman that he should be allowed to advocate this darling of his bosom with zeal, I might yet acknowledge, without intending any personal disrespect, that he has occupied an undue proportion of the time of the House in doing so. If he had allowed the bill to pass without so much debate, after going through the Committee of the Whole, there would have been no difficulty in it. I invite the attention of that honorable gentleman, when he next looks into the subject of retrenchment, to the devising of ways and means by which we can get along with business in this House a little better: that we may not be obliged to hear any gentleman, on a subject of this sort, more than one hour at a time, nor have him repeat the same speech more than three times within that hour: nor to hear him take a wide range concerning himself and the difficulties he has encountered in getting here. I speak of this in general terms, as an evil that needs the correcting hand of the Retrenching Committee, or some other committee. Upon principles of justice and equality,

DECEMBER, 1829.]

*Congress Mileage and Compensation.*

[H. OF R.]

(Mr. L. said) he thought that this bill ought to pass in some shape or other, and he could not but regret its delay, and the obstacles which its friends had, no doubt unintentionally, thrown in the way of its progress. He admonished his colleague not to be too particular as to terms, and, if he obtained a bill sufficient for a correction of the evil, to be satisfied. This might have been done (he said) without any great parade, by the introduction of a resolution declaratory of the opinion of this House as to the intention and construction of the law of 1818. The committee, however, having preferred a different mode of accomplishing the same object, he was disposed to acquiesce in it.

This child of the bosom of his colleague had been long in coming into the world. The nation has looked for it with intense anxiety. It had been slow in its conception, and tardy in its delivery. It was old; though it had been said to be small, yet it was comely. It was a production which (Mr. L. said) he himself admired very much, since it had seen the light; although, from the great difficulty in bringing it to life, some had apprehended that the Cæsar-like operation would have become necessary before it saw the day. It has come, however, (said Mr. L.,) and I rejoice to see it. I rejoice the more, because it has a striking resemblance to its father—not to the colleague of mine who laid claim to it yesterday, but to him who has the charge of it; though, really, from the affectionate struggle between my two colleagues as to its paternity, I did not know but we should have to resort to the plan of Solomon of old, and settle the question by dividing the offspring between them. But, to speak seriously, he believed that his honorable colleague who reported the bill was the real father of it, and should have all the credit of so hopeful an heir. He hoped to see it carefully nursed, but not too closely, lest perchance it might be smothered by too much kindness. He also desired that it might inherit all the good properties of its father—all his industry, ability, and usefulness; and, in saying this, he was not speaking ironically, but he hoped that it would not at the same time inherit an unconquerable desire to talk. Mr. L. hoped (he said) that we should have its twin brother, and a good many of the same progeny. He liked the breed. He wished to see "reform" here in expenditures, as well as elsewhere throughout the country. Though it might be thought small game by some, he would be glad if his colleague would go on and pursue it. So much saved is so much gained.

As every body seemed willing that this bill should pass, (Mr. L. said,) he had got the floor to ask why the House should hesitate longer about it. Why not pass it to-day? He never had himself a doubt as to the intention of the law of 1818; for he never had the acuteness himself to be able to find out that "the usually travelled road" was the bed of a river, and, therefore, never thought of making such a charge; but, at the same time, he did not con-

demn the gentlemen who had calculated their travel in that way, if they thought it just and according to law.

Those parts of the bill which had been stricken out, (Mr. L. said,) he did consider as conveying an imputation on this House, by referring the computation of the mileage of members to the Postmaster General. For himself, (he said,) he wanted no overseer or supervisor of this House, or what might be called a Congress-Master General. He could never agree to let any officer out of this House regulate its peculiar and exclusive concerns. Gentlemen might, on the stump, or elsewhere, harangue about the want of integrity in this House. Mr. L. said he considered its integrity the last stay of the nation; and when that reliance was gone, he should think the Government was gone. Such things may be talked of as electioneering topics, and to be witty upon. But, when we come to be serious, the truth is known and acknowledged, this House has integrity. Having no doubt on that subject, ought we ever so far to bring ourselves into disrepute by our own vote, as to intimate that any individual at the head of a department is likely to have more honesty than we have? I do not acknowledge that any one man, the Postmaster General, or any other executive officer, up to the highest, deserves such preference over ourselves: for I believe that there is as much honesty and patriotism in this House as in any equal number of people upon earth. I look to them with hope and confidence for safety in the worst of times. Let the times be as bad as they may hereafter—I do not now speak of the present time—I look to this House to protect the public interest. I never will consent to say, either directly or indirectly, that there is any head of a department that can and will do more justice to this nation than the nation may rightfully expect from the House itself. The Post Office Department has already heavy duties to perform, with fewer responsibilities, with more power and patronage, than any other department of the Government; and all the ability and all the honesty of its head is required for its own faithful management. He would not therefore agree to place this House under the control of him, or any other officer whom it might be proposed to make its comptroller general. Mr. L. concluded by saying he did not wish to consume time unnecessarily, and expressed a hope that the House would pass the bill before its adjournment.

Mr. SPRIGHT said he had not submitted the motion for adjournment with a view of making a set speech on the subject of retrenchment and reform. He was fearful that the patience of the House was already exhausted; he had not originally intended to take any part in the discussion; but the innumerable amendments which had been made to the bill had induced him to make a brief statement explanatory of the vote he should give. He could scarcely expect that the House would attend to him with

the same good humor with which they had listened to the gentleman from Kentucky, (Mr. LETCHER.) That gentleman had been pleased to call this bill a child, which needed nursing and attention to rear to maturity, and professed himself willing to aid in rearing and educating it to useful purposes. Mr. S. thought that the chairman of that committee might say, in reference to the friendship manifested by his colleague, in the words of the Spanish proverb: "Save me from my friends; from my enemies I can protect myself." When the bill was first introduced into the House, he was opposed to it, and had so stated unreservedly, mainly on account of that clause in the first section, about which so much debate had been had, directing a reference to the Postmaster General. When this part was stricken out by an amendment, he was disposed to vote for the bill. His objections to that clause were the very incorrect estimate which the post office books give of the distances on some of the post routes. Their distances were no doubt generally obtained from deputy postmasters and mail carriers, who evidently knew very little of the matter. In his district, he had heard no complaints about the per diem allowance on the mileage of members. The committee had, however, reported an abuse or an error, and had demonstrated how it had originated, and had proposed a remedy. The fact that this matter, thus disclosed, had not been spoken of at such a distance, shows that this error has been gradual in its growth, and that the people have never been fully apprised of its extent. It ought, therefore, to be corrected, and the amended bill afforded a proper remedy. Mr. S. could not agree in opinion with his friend and colleague, (Mr. CARSON,) his bosom friend, he might say, that in this matter corruption or dishonorable motives were to be imputed to members, and that they should resent such attempts.

He saw nothing in the bill to awaken such feelings. It was based upon the admitted fact that something had been done which ought not to have been done; and that the present law was so defective that such errors might occur even with good intentions. The enactment of this law would prevent a recurrence of these things, by establishing a uniform rule. He saw in this nothing to impeach the character or ruffle the complacency of members. He reprobated the doctrine that members of Congress were too honorable to need accountability, and that they should be exempted from responsibility. Members of Congress were, he doubted not, equally fallible with other men; and, in this matter, the question is about that in which men are most fallible, their self-interest. He was for discarding such pretensions, and for putting a stop decisively to these malpractices. Mr. SPEIGHT said that, two years ago, when these matters were first broached, this Hall, and every Hall in the country, rung with the accounts of the waste of public money, constructive journeys, double outfits, &c. He was

then, as now, of opinion that the question of retrenchment should be fully met, and a thorough investigation ordered into all the departments of the Government. But his opinion was, unequivocally, that this reform and investigation should commence, like charity, at home, and here in this Hall. This bill, in part, met his view; and when this should be settled, he hoped the committee would prosecute the inquiry into certain other matters about the House, the use of stationery, &c. And when the affairs of that House were retrenched and reformed, he hoped they would proceed through all the departments, from the Executive down through every office, and examine and reform all the abuse which may exist. He had heard, during the last nine months, a great deal of the removal of faithful public officers, men who, for many years, had served the public well, and the appointment of others. If these things have been done without cause, it is proper that such an abuse of power should be detected, and its authors punished by public opinion. In these remarks he had no intention of alluding to individuals; the question simply was, the abuse being admitted, should not the remedy be applied? He thought it should, and therefore supported the bill as amended.

The question was then taken, by yeas and nays, on striking out the second section of the bill, and decided in the negative by a large majority, 158 to 15.

Mr. CHILTON, of Kentucky, then moved further to amend the bill, by adding the following as a new section:

Sec. 3. *And be it further enacted*, That the sum of six dollars per day, and six dollars for each twenty miles travel, and computed according to foregoing provisions, be allowed to each member of Congress, in lieu of the present allowance; and that all laws making a greater or different allowance be, and the same are hereby, repealed.

This motion Mr. CHILTON supported by a speech of some length, and concluded by asking for the yeas and nays upon it.

The House refused to order the yeas and nays to be taken, by a vote of 162 to 19.

A motion was then made to adjourn, and decided in the negative.

The question was then taken on agreeing to the motion of Mr. CHILTON, and decided in the negative, yeas 26.

And then the bill was ordered to be engrossed for a third reading, in the following form, viz:

"*Be it enacted, &c.* That the Secretary of the Senate and the Sergeant-at-Arms of the House of Representatives shall, at the present and at the commencement of each subsequent session of Congress, obtain from each member and delegate the name of the post office nearest his residence, and shall then with the aid of the presiding officers, ascertain and fix the distance to said post office from the seat of Government, computed according to the shortest post road on which letters are usually transmitted by mail from the seat of the General Government

DECEMBER, 1829.]

*Distribution of Public Lands.*

[H. OF R.]

to said post office; after which, he shall add to, or subtract from, the said statement, as the case may be, the distance from said post office to the residence of said member; upon which statement, the mileage of each member is to be computed.

"Sec. 2. *And be it further enacted,* That, on the final settlement of the account of each member or delegate, he shall subjoin, at the foot of his account, a certificate that he has deducted from his account all and each of the entire days on which he may have been absent from his seat in the House of which he is a member, during those days on which it may have been in session: Provided that nothing in this act contained shall be so construed as to prevent a member receiving a daily compensation, if the absence of such member was occasioned by sickness after his departure from home; in which case, a member so prevented from attending the House, shall annex a certificate of the fact of sickness, and its duration."

THURSDAY, December 31.

*Distribution of Public Lands.*

The House having resumed the consideration of the resolution of Mr. HUNT, proposing a distribution of the net proceeds of the sales of public lands among the several States for the purposes of education and internal improvement,

Mr. TIER rose, and said that he had but a few words more to say, and he should close. I think, sir, (said Mr. T.), I was calling the attention of the House to the *modus operandi* under the provisions of the amendment to the resolution by the gentleman from South Carolina, and particularly what was to be taken into this account current which was to be made out. I had said, we shall call upon you to go the whole; we shall not only call upon you to throw in all the lands in this district, besides the useless millions you have laid out upon this building and the President's house, but we shall call upon you to take an account of your navy also, for it will be extremely onerous to call upon us in the new States to pay for the lands you pretended to give us, without allowing us to draw out of the general stock our money portion of the funds. I shall be told that these public buildings are a part of the staple improvements of the country, which were never intended as a fund; this I admit; and so, by your pretended gift, these lands (so far as they have been applied) have become a part of the permanent improvements of the country as much as your public buildings; but we are called upon to pay for them, and we cannot do so except we be permitted to draw upon the joint stock. It will be no answer to our proposition to tell us that the cost of these buildings, &c., are money appropriations, and not land. Sir, I would inquire of the gentleman from South Carolina, what distinction he will draw between an appropriation of money and of land—except that money is preferable.

Sir, I should think the gentleman's precipitancy a conclusive evidence that he was afraid

to submit his proposition to the deliberate cogitations of the people. He is fearful that that monstrous sentiment which he has heard in whispers might assume a more audible tone—he is fearful it may gain upon public opinion. Sir, if it be true, that such a sentiment or opinion be gaining ground, it is one of the strongest reasons under Heaven why the decision of the question should be postponed. Let the people deliberate upon it, and my life for it they will come to a correct conclusion concerning it. Is the gentleman afraid to postpone it till after the next census? I should think so, from his desire to push the matter now. Why, sir, drive us into a decision now? Why not let it remain till public opinion has decided upon it? The new States are but weak in numerical strength; why cram this measure down their throats before they shall have acquired the strength which the new census will give them? It shows there is something wrong about it, and that he is afraid to trust it to the searching investigations of time. If we must have a scramble for this property, give us a chance with you—do not take the advantage of our present representative weakness, when you know we have a large portion of original physical strength just ready to organize and bring into action. It would not be fair; if we must lose our lands, let us at least have the benefit of all our strength before we commence the unequal struggle. Sir, I can say to my friend from Vermont, I have never heard such principles as he mentions contended for—I have never heard any man deny but that Congress had the right to dispose of those lands according to the tenor of the compacts with the various States which have made cessions. But I will say to my friend, that whatever lands the United States may have in the new States, at least the Western ones, Vermont has no land there, nor ever will have, until the Western States consent to it, or the most solemn engagement shall be violated by the Congress of the United States. Sir, I have said this, and I will say it here, that the gentleman may be apprised of it, that when the motives or considerations for ceding these lands to the United States, by the several States, shall have been fulfilled, that, from a principle of equity, connected with the contract, they must and will fall to the States in which they lie; and, sir, I will give the gentleman the grounds of my opinion. Sir, it is evident that these lands were ceded to the United States upon two considerations, the most prominent of which was, to create a sort of political balance in the Union, as I have heretofore said; the next was, the payment of the public debt. The lands are, therefore, a trust estate in the hands of Congress or the United States, for the purpose of fulfilling the design of the States which ceded them, that is, to lay off a certain number of new States, not to exceed a certain size, so as to create the balance of power I have before stated—which States were to be free republican States, pos-

sessing all the rights of sovereignty and independence of the original States; and, at a proper time, to be admitted into the Union upon an equal footing with them. Now, sir, is it not a settled principle, in the construction of all trusts, from which no tribunal ever thought itself at liberty to depart, that when the whole object or consideration for which the trust was created shall have been fulfilled, that the estate reverts to the original donor, unless otherwise directed by the terms of the trust? Here, sir, it is otherwise directed; it never can revert to the donors. But, sir, when these new States shall have been laid out, and the public debt paid, these lands must go to those new States according to the provisions of the grant—having all the rights of sovereignty, freedom, and independence of the original States. Sir, I am forbidden to travel upon this ground—it belongs not to the amendment, but to the original resolution, which I have been warned not to discuss. When a proper occasion, however, shall offer, I may take up the subject more at large, but, for the present, I will not trouble the House longer.

Mr. SPENCER, of New York, said that he rose to make a very few remarks. The gentleman from Georgia, (Mr. WILDE,) had correctly stated that the resolution was merely for the purpose of inquiry; it was an initiatory proceeding with a view to certain results, and every thing pertinent to the inquiry should be embraced in the resolution, if nothing more. He presumed it had not been the intention of the mover of the resolution that donations, in land, or otherwise, to the new States, should be taken into consideration; and the gentleman from Vermont, (Mr. MALLARY,) although he had expressed an intention of voting for the amendment, had distinctly disavowed taking into the final account those donations against the new States. He was opposed to any retrospect as to grants or donations to any of the States, and he believed those who acted with him in support of the resolution were opposed to it. In the first place, they wished to avoid any excitement; and, in the second place, they considered such retrospect unjust. He fully agreed with the gentleman from Ohio, (Mr. VANCE,) that the donations which had been made had promoted the interests of the United States, by greatly increasing the value of the residuary lands; and he even felt that those hardy adventurers, who had entered our forests, and, amidst privations and sufferings, reduced the wilderness to pleasant abodes, were entitled to even more than they had received. He said the amendment proposed by the gentleman from South Carolina, (Mr. MARTIN,) was a Pandora's box, and had produced the excitement which had been displayed; that gentleman, instead of uniting to put that down, had opposed the original proposition, as containing the unjust principle of taking the donations to the new States into account in the final distribution of the proceeds of the sales of the public

domain. The gentleman from South Carolina had candidly avowed that he was hostile to the inquiry, and should vote against it if his amendment was adopted. He had never perceived the propriety of the amendment, and was satisfied that it would produce no other purpose than that of exciting, unnecessarily, and improperly, the feelings of the representatives of the new States. His own opinion was, that the subject should be examined now, and that it should be settled by this Congress; and that opinion had been strengthened by what he had heard from the gentleman from Indiana. He had never before heard the reasons assigned by that gentleman for the cessions made by Virginia and North Carolina. He had never supposed that these cessions were for the purpose of making new States. It was notorious, that, by the treaty of peace terminating the war of the Revolution, the lands falling within the original boundaries of those States were wrested from the Crown, and enured to the States within whose limits they were situated; in consequence of the arduous struggle for independence in which all the old States participated, and by the common blood and treasure of the then States, these lands had been acquired. Virginia, and the other States who made cessions, magnanimously surrendered a portion of the territory thus gained. This surrender was dictated by a high sense of justice, and never has been, and never ought to be, viewed as a donation. He should suppose that the ratio of representation in this House was the proper measure by which to ascertain "the proportion of charge and expenditure." Let inquiry be made, as it ought, in order that, in our future distribution, we may conform to the intention of the granters. The gentleman from Indiana (Mr. TIER) had admitted that the legal title to these lands was in the United States, but he has said that eventually they ought in justice to go to the States within whose boundaries they were. Suspicions that such sentiments were entertained by the new States had probably led to the introduction of the resolution. It must also be recollected that there was a vast quantity of public lands, which had been acquired by purchase, for which the United States had paid large sums, and assumed onerous burdens. He referred to Louisiana, Florida, and the Georgia and Alabama lands. Have the United States been reimbursed for the consideration money paid out of the common treasury for these lands? He believed not. And on what plea then can the new States claim the unsold lands as theirs? It certainly was to be apprehended that at some future time the claim which had been intimated by the gentleman from Indiana would be more boldly advanced, and that the right of the old States would eventually be denied. He was glad that, in the enumeration of the States, which had largely participated in the public expenditure, the gentleman from Indiana had not named New York; she had indeed had but little of the expenditures of the

JANUARY, 1880.]

*Distribution of Public Lands.*

[H. OF R.]

General Government; she had applied for its aid when about to undertake her great work, but was denied all assistance on the ground of unconstitutionality. She then went on with that great enterprise unassisted and alone, and had succeeded, and was now enjoying the rich harvest of her enterprise. He thought this the precise time to make inquiry as to the distribution of the proceeds of the public lands, and he desired to make the inquiry and measure entirely prospective. He thought the friends of the resolution should unite to disencumber it from the amendment, and that they should adopt the proposition suggested by the gentleman from Pennsylvania, (Mr. BUCHANAN,) and send it to a Select Committee.

Mr. BLAIR, of South Carolina, remarked that he was sorry to see, in that House, such a strong and inveterate disposition to scramble for the public funds. During the short time they had been in session, frequent attempts had been made to commit that House on the subject of appropriating public lands, or setting apart the "surplus revenue" for objects of "internal improvement" or education. Some gentlemen seemed to be very much afraid we should not know what to do with our surplus revenue. This reminded him of the story about the hunter, who sold the skin before he had killed the bear. Mr. B. said he thought common prudence and ordinary delicacy would require gentlemen to wait until the Government had paid its debts, and had really a little spare cash over and above its necessities, before they undertook to dispose of its surplus funds "in advance." Mr. B. said, although he very much wished to see this Government out of debt, yet he never expected, and he never wished, to see it possessed of surplus revenue to any considerable amount. He feared it would only serve to engender discord and corruption. The true policy of this country (he said) was to pay off the public debt as soon as possible, and lessen the duties on imports so as to meet only the real exigencies of the Government. It was a folly to say, or to imagine (as he had understood some gentlemen to intimate) that the people, after having realized the convenience and advantages resulting from low duties, would resist such an increase of them as might become necessary to meet any contingency or emergency that might arise. This (he said) would be a bad comment on their patriotism. He hoped they had not yet so far degenerated from the political virtue of their Revolutionary fathers. No, sir, (said Mr. B.,) when the people see the Government disposed to ask no more from them than is really necessary to support it, they will, in cases of necessity, submit to the greatest burdens. They will not only give their last dollar to aid a Government thus mindful of their interest, but, along with their money, they will freely give their blood. Mr. B. further said, that, after the public debt is paid off entirely, and the public lands thereby redeemed from the pledge

they are now under for the obligations of the Government, he did not know that he should have any objection to a fair and equitable distribution of that territory; and if South Carolina could only get justice—sheer justice—in all other respects, he should not be disposed to squabble about those lands. Those who seemed to have such an "itching palm" for them, might take them, rather than he would enter into a scramble with them, like school boys scuffling for chestnuts. But, until our honest debts were paid, (if he might call them honest,) at any rate until all the pecuniary obligations of the Government were discharged, he hoped the public lands would be held as sacred as is the cash in the Treasury itself.

TUESDAY, January 5, 1880.

*Distribution of Public Lands.*

The House resumed the consideration of the resolution moved by Mr. HUNT on the 17th ultimo, concerning a distribution of the public lands among the several States.

The question recurred on the motion made by Mr. MARTIN, on the same day, to amend the same.

Mr. CLAY, of Alabama, said, that, but for the amendment proposed by the gentleman from South Carolina, (Mr. MARTIN,) he should have claimed no share of the indulgence of the House on this occasion. That amendment (he said) involved the rights and interests of the new States, one of which he had the honor to represent, in part, in no small degree—at least, according to the exposition of its friends—consequently, he felt it a duty incumbent on him to repel some of the remarks which had been made upon the subject.

Mr. C. said he did not wish to be understood as being ready to assent to the general proposition embraced in the resolution, as originally offered by the gentleman from Vermont, (Mr. HUNT.) He would not undertake, at this time, to say what might be his vote upon that proposition when the proper time for giving it might arrive, but he certainly now considered it objectionable. It seemed to him that the measure contemplated was entirely premature. Though Congress might now deliberate and act upon the question, by passing such a law as was proposed, of what avail would it be? It was agreed on all hands, that it could now have no effect, nor would it have any for several years to come. In the mean time, for several successive sessions, the measure might be discussed, and changed and modified again, and again, or even repealed, before it went into operation; which, it was agreed, could not happen before the extinguishment of the public debt. Mr. C. said he believed it was an acknowledged axiom in political economy, that too much or unnecessary legislation was always improper; that it was always a sufficient objection to any measure which might be pro-



posed, when its inutility could be demonstrated. If it be allowable to adopt the measure now proposed, we might with equal propriety be continually legislating in advance and upon contingencies. Upon the same principle we might begin to legislate upon the subject of apportionment in this House four or five years before the proper period arrived; though any act which could be passed upon the subject would for four or five successive sessions be open to consideration, alteration, or repeal. He would ask whether this would not be an indiscreet consumption of the public time and an unwarrantable expenditure of the public money. He thought it would, and, under such impressions, he was not prepared to give his assent to the proposition, in any form.

But (said Mr. C.) the amendment is much more objectionable. It assumes the fact, as explained by its friends, that many and large donations have been made to the Western States, and calls on us to perform the ungracious and unenviable task of now raising an account, a charge against them for their value. Sir, (said Mr. C.), I will leave to other gentlemen to determine, if the fact be as supposed, how far it is consistent with the generous spirit in which gifts are presumed to be made, to demand or claim an equivalent in this manner. But (he said) the assumption of facts on which the amendment was predicated he by no means admitted. On the contrary, he felt authorized to controvert them. He believed that it would be found on examination of the various grants alluded to, that every one of them had been upon some consideration, supposed to be adequate, and upon terms and conditions. As to the sixteenth sections of every township reserved for the support of schools, they were part of the original consideration of purchase offered by the Government, in "an ordinance for ascertaining the mode of disposing of lands in the Western Territory," passed as long ago as the 20th May, 1785. The like reservation had, he believed, been made in every subsequent law which had been passed for the disposal of the public domain, from that time down to the present. It was part of the consideration and inducement held out to the adventurous pioneers, that, if they would buy thirty-five sections of a township, they should have the remaining one to assist in the education of their offspring. They cannot be said to be donations, then, but are part of the original contract between the Government and the purchasers.

Mr. C. said there had been other grants for different purposes; some for roads, some for canals, and some for seminaries of learning. It would be found, however, that all these grants were for the advancement of some great improvement, of a character national rather than local, or for some advantage, or benefit, which amounted to an equivalent. Grants had been made to Ohio, to Indiana, to Illinois, and more recently to Alabama. In all instances, the Government still retained lands, the value of

which would be greatly enhanced by the improvement; and in many, perhaps half the cases, every alternate section through which the road or canal was to run, was reserved from grant or sale, thereby increasing the value twofold. He believed, in every case of a grant for a road or canal, one condition was an exemption of the property of the United States and persons in their employment from toll; and another pretty general feature in them was a rigid accountability on the part of the State receiving for the application of proceeds or funds arising to the particular object contemplated. But independent of this, every road and every canal, for which an appropriation had been made, improved facilities of commercial intercourse, as well as of defending the country in time of war. One of those grants contemplated the construction of a road from the Atlantic coast to the Ohio River; others contemplated canals, or roads establishing communications between the Northern lakes and some other principal rivers of the Western States; and still another class were made for the removal of obstructions to the navigation of our rivers, so as to admit of uninterrupted navigation at all seasons far into the interior. Mr. C. asked, could it be pretended that any of these grants were for the exclusive benefit of Ohio, Indiana, Illinois, or Alabama? He thought it could not with propriety; but contended, on the contrary, that the State to which any of these grants were made, was constituted a sort of trustee or agent, to superintend the accomplishment of improvements, in which her sister States were often equally, and sometimes more deeply, interested than herself. The experience of the last war has shown the want and the value of such facilities of intercourse between remote parts of the country; and had, probably, induced the making of some of these appropriations.

Mr. C. said that the grants which had been made for seminaries of learning, so far as he had examined them, had either been made upon some one of the considerations which he had mentioned, (for example, the enhancement of the value of the remaining public lands,) or in consideration of concessions made by the States upon their admission into the Union. He spoke more particularly in reference to the grant made to Alabama for the establishment and support of a seminary of learning. But what was required of that State in turn? Nothing less than the surrender of some of the most important rights of sovereignty, common to the older States; whilst we were told, in the act passed for our admission, and in the resolution declaring it, that we were admitted, or to be admitted, "upon an equal footing with the original States in all respects whatsoever." Yes, sir, we were compelled to disclaim all right to the primary disposal of unappropriated soil within our chartered limits, and to abandon all right to tax the lands of the United States, or lands sold by the United States, till five

JANUARY, 1890.]

*Distribution of Public Lands.*

[H. OF R.]

years after such sale. He said he knew nothing pertaining to sovereignty of more importance than the power of taxation; without it, he presumed, no Government could long exist. Again, when this grant was made to Alabama, the Government of the United States still owned a large quantity of land within her limits, the value of which was augmented.

Mr. C. said that one gentleman who had addressed the House, (he did not then recollect from what State,) had urged the claim of the old States to this distribution of the public land, on the ground that they had achieved the independence of the country. The argument had struck Mr. C. with some surprise. The gentleman could not certainly mean that the independence of our country had been achieved by those who now reside in the old States and by their ancestors; and could not the people of the new States claim the same ancestry? Had not they, and indeed some of those who fought the battles of the revolution, emigrated from the old States? They had, (he said,) and had shown themselves, in the late war, worthy of such ancestry; they had evinced as much courage, as much enterprise, and as much patriotism, as the people of any other section of the Union. Mr. C. said he invited the attention of every gentleman to an examination of the terms of these grants; and repeated, that he had full confidence that each one of them would be found to be grants, upon some adequate consideration, or for the accomplishment of some national work. Under these impressions, he hoped that the amendment under consideration would be promptly rejected.

When Mr. CLAY concluded, Mr. HUNT obtained the floor, but had not proceeded far, when the hour allotted for the consideration of resolutions having elapsed, the remainder of his remarks was deferred to another day.

TUESDAY, January 7.

*Distribution of Public Lands.*

Mr. POTTER said, that, when he recollected the subject of the resolution before the House, that it proposed nothing definite—nothing conclusive—it appeared to him that this debate was most unnecessarily protracted. Gentlemen took for granted the matter which it is the object of the resolution to ascertain, and have founded their arguments upon what they apprehend might be the report on the resolution, if agreed to. They certainly seemed to be the impression of gentlemen who had spoken in opposition to the amendment; for those from that part of the United States where the amendment pointed, discussed it with as much zeal as if the final proposition to distribute the proceeds of the sale of the public lands amongst the several States, for the purposes contemplated, had been under consideration, and to exact a rigid account of the new States of the proportion they have received. What did the amendment propose? It simply proposes to

instruct the committee to lay before the House a statement of the quantity and value of the public lands which have been given to any State, or the public or private institutions thereof. It implies (said Mr. P.) a pledge as to the use which the House will make of this information when obtained. For my own part, (said Mr. P.,) I have no disposition to demand a strict reckoning on this score from the people of the new States. No one sympathizes more than I do with the difficulties they have had to encounter, or admires more the courage with which they have sustained them. But, before I proceed to act in prospect upon this subject, I wish to see what has been done with it heretofore. It is with a bad grace that gentlemen seek to suppress this information. They talk to us about the valuable public considerations for which the donations in question have been made. Be it so. It will be time enough to bring up those arguments when we have a proposition before us to demand an account of them. All that we want now is such information as will enable us to determine, correctly, whether such an account shall be demanded. Mr. P. said, I would rather have the facts than the statements of any gentleman, whatever might be my own confidence in their integrity. I will never act upon faith when facts can be produced, in relation to any matter whatever, and shall therefore vote for the amendment. There is surely a most fastidious sensibility here upon this subject. We have even heard the title of the Union to these lands drawn into controversy, and a comparison instituted between the military merits of the old and new States. This, sir, is idle. I apprehend there is no man here, who will dare to deny the right of the United States to its own property. That is a proposition I would no more consent to discuss, than the plainest axiom in Euclid. Having been alluded to, however, it was placed on the true ground by the gentleman from New York, (Mr. SEKNOKER,) who favored us with his remarks on Thursday last, so much to the satisfaction of every one who heard him. We have heard something said of the share which the individual States have contributed of this common stock. The State which I have in part the honor to represent, gave up to the Union a territory, which, whether you look to the quality or the extent of it, forms one of the most valuable portions of the public domain. Yet North Carolina, one of the oldest and most liberal members of the confederacy, has received but a step-child's portion. She will not stoop to the language of complaint, but at a proper time she will present herself to the justice of this House, and of the nation, and in mere justice will ask their co-operation in measures which may be necessary to enable her people to receive and retain in their own hands the avails and the profits of their own labor and industry—measures, in short, which will unchain her navigation, and place her in free and fair communication with the commercial world.

This, however, is a consideration not to be gone into at this time. I merely mention it now as that which will govern my vote in this and all similar questions. Our situation in North Carolina requires all the resources we can command; and I feel it to be one of the most sacred duties I owe to my constituents, to take back from the federal treasury every dollar I can put my hand upon of the sum contributed by us, over and above our fair proportion in the general charge and expenditure, to be expended, however, at our own option, and under our own direction. I regret to have heard the gentleman from Vermont, (Mr. HUNT,) who introduced this resolution, decline yesterday receiving the proposition which had been suggested, but not actually proposed to the House, by the gentleman from Pennsylvania, (Mr. BUCHANAN.) That proposition even avoids the semblance of a committal on the part of the House, either as to the constitutionality of the power proposed to be exercised, or the time when it will be expedient to put it in operation; and when the amendment before us is disposed of, I will myself, if no one else will, present that proposition as a substitute for the present resolution. It is desirable on another account. It proposes to substitute a Select Committee for this reference, instead of the Committee on the Public Lands. This is obviously proper; and, from what I have seen of the mass of business before that committee, I am sure they will be obliged to be relieved from the task of this investigation. In giving the pledge to offer a substitute to the resolution before us, I have no disposition to take the management of this matter upon myself. I shall wait, therefore, when the pending amendment is disposed of, to see if some other gentleman will not introduce it.

Mr. Lewis said, that, as a member from a new State, he felt that no apology was due in claiming for a few minutes the attention of the House. The subject was one of great interest to the members generally—to the new States it was a matter of incalculable interest. It is no less than a proposition to distribute these lands among the different portions of the Union. In fact, (he said,) the process was actually going on, and the Representatives of these States cannot be expected to sit the silent spectators of a scene in which their constituents have so great an interest.

The mover has said that this is a mere question of inquiry; and infers that it should not meet with opposition, until it is embodied in a report from the Committee of the House. Sir, it is a question of inquiry, and one of a character so decisive of the destiny of the new States, that it should be met at the threshold. He thought that it would be well to discuss most propositions on a motion of reference. The question is then fairly presented, divested of all extraneous matter, and the unbiassed sense of the House is taken alone upon the merits of the inquiry.

Mr. L. said he should vote for the amendment of the gentleman from South Carolina, but from views very different from those of the honorable mover. He thought it a requisition of sheer justice, that, before any distribution of the funds of this Government should take place, it should be known what amount the several States have previously received for purposes of education and internal improvement. It was but fair play, and should precede every other inquiry. So far from avoiding such an inquiry, he was disposed to extend it, not only to the donations of land actually received, but to donations of moneys for splendid roads, canals, breakwaters, &c., in different sections of the country.

Mr. L. said he was, he believed, the only member from the new States, who had declared actually in favor of the amendment; and he did so, from a conviction that, so far as Alabama was concerned, she had nothing to fear from the investigation. Other gentlemen had asserted the same, in relation to other new States. Then why oppose the amendment? Mr. L. thought that, when the debits and credits were fairly stated between the General Government and Alabama, a considerable balance will be found in her favor. He believed he could get a verdict for that balance, before any impartial Committee of this House; and hence he had every reason to invite the inquiry.

Previous to any sales of her lands, it was known that there were to be certain reservations for the purposes of education and internal improvement. These are what gentlemen call donations; but, sir, I think I can prove that she has treble paid for them in the enhanced price of her lands, and in her relinquishment of certain portions of her sovereignty. I mean the right of taxing these lands. Can any gentleman believe that these stipulations in favor of the purchasers of public lands did not enhance their price? That they did not enter into the considerations of the purchase, as much as fertility of soil, health of situation, or any other local cause? Yes, sir, these stipulations were as well known at the land sales as they are in this House. They entered into the price of every acre of land, and into the calculations of every individual purchaser, from the keen and cautious speculator to the humblest individual who sought to purchase an eighty acre tract on which to place his little family. Gentlemen who argue differently, must suppose that the people of Alabama are the most uncalculating beings on earth. They are not, perhaps, as calculating as the population of some other sections of the Union; but to impute to them a disregard of such obvious advantages in the settlement of a new country, would amount to a charge of idiocy. As well might it be urged that an acre lot of land, twenty miles from this in the country, would sell for as much as one advantageously situated on Pennsylvania avenue. The conclusion is inevitable, that, whatever advantages were offered by the Govern-

JANUARY, 1880.]

Southern Indians.

[H. OF R.]

ment to purchasers before the sales, were well understood at the sales, entered fully into the price of the public lands, and were fairly paid for in an enhanced price. In addition to this, an injudicious promise had been extorted from the State not to tax the public lands, nor the lands of individuals, until five years after their purchase.

Here was another of those favors to the citizens paid for at the land sales. But (Mr. L. asked) what has been the effect of this concession on the part of Alabama? It has impoverished her finances, and created the necessity of the most oppressive taxes on other kinds of property. Mr. L. said that he was somewhat acquainted with the finances and taxes of Alabama, and he believed that if the lands within her limits had been subjected to as heavy a tax as other property, it would not have fallen as low as the annual amount of fifty thousand dollars since her admission as a State. How long this sacrifice would continue under the present slow, tedious, and objectionable mode of disposing of the public lands by auction, it was impossible for him to calculate. Perhaps at the end of fifty years all the land will not be sold. In one-third, however, of that time, the sacrifice will doubly exceed the value of the land secured to the State by compact. These (Mr. L. observed) were the advantages which Alabama had received from the General Government, and which have been alluded to in this debate. Sir, Alabama has experienced a rigid policy from the Government. At the time that this compact was formed between her and the United States, she was a territory. The General Government stood to her "*in loco parentis*," in the situation of a guardian to his ward. Alabama, as to the exercise of her political rights, was in her minority—in her childhood; and these sacrifices were demanded of her as conditions precedent to her admission into the Union. The compact has been discreditable to this Government, and injurious to Alabama, crippling her energies, destroying her fiscal resources, and, at the same time, operating in every respect advantageously to the United States. Sir, from the situation of the parties at the time of this contract, I am induced to believe that it would be declared a nullity before any equitable tribunal. It was a compact entered into by Alabama, not only in her minority, but under duress and fear of not being otherwise admitted into the Union.

Mr. L. said, that, as a citizen of a new State, he should oppose the proposition, as unjust and unequal to the new States. What was the value of these lands before they were reclaimed and subdued by the enterprise of the first settlers? To quote the language of the mover of these resolutions, (the honorable gentleman from Vermont,) they were "waste and uncultivated deserts." Sir, their value has been imparted to them by the industry, enterprise, and sufferings of that hardy population who precede the comforts and conveniences of a more

advanced condition of every newly settling country. Who levelled the forests, who opened the roads, who established the towns, who gave, in fact, a determinate value to all the lands in the country, by converting a wilderness into a country possessing all the comforts of cultivated life? The people of Alabama. The labor and hardship were with them; and shall they be placed on no better footing than the old States? Shall they receive but three shares out of two hundred and thirteen, in all the lands within their limits? Shall their improvements and industry be sold and distributed, for the purpose of establishing roads and canals, schools and colleges, in other States, whose citizens have shared with them none of the hardships, the labor, and the sufferings, of settling the country? Sir, the proposition is unjust, and the system would render the new States tributary to the old. Besides, what would be the share of Alabama under this system? Three shares would probably be worth fifteen thousand dollars, and yet her citizens pay perhaps four or five hundred thousand dollars a year for land. A constant drain upon the resources of the State to this vast amount, a continued current of circulation setting from them in its onward course, with the paltry return of fifteen thousand dollars. This is too much the case at present; but the citizens of Alabama will not complain so long as this money goes in payment of a debt incurred in defence of national rights and honor. If applied to any local purpose, they will and ought to complain.

From whence, asked Mr. L., does this proposition come? From Virginia, whose contributions of land to the General Government have been more than all the other States? No, sir; that great and patriotic State, whose generosity is so often complimented on this floor, and whose name is identified with every sacrifice of blood or treasure in defence of this Government—she, I say, sir, does not ask, and would be the last to ask, this distribution at our hands. North Carolina has also made an important cession of lands to the Government. I hope a majority of that State do not demand the distribution. South Carolina and Georgia have also made large cessions of lands, and I am persuaded neither of them will favor this project. From what quarter, then, does the proposition present itself? From Vermont—a State which has made no cession whatever to the Government; and that, sir, in the absence of Virginia, whose liberality has created the largest portion of the fund which it is proposed to divide. He hoped the question would not be taken until Virginia was fully represented on this floor. He should make such a motion, if no one else did.

MONDAY, January 11.

Southern Indians.

Mr. CAMBRELENG moved that the memorial

heretofore presented by him, and then laid on the table, from a meeting of citizens of New York, praying the interposition of the General Government to protect the Southern Indians from injustice and oppression, be now referred to the Committee on Indian Affairs.

Mr. THOMPSON, of Georgia, rose, and said, that, disclaiming all intention of opposing the reference proposed, he would, however, question the propriety of entertaining every petition or memorial which may be addressed to Congress, whether it be the result of an accidental meeting at a grog-shop or not. It appeared to him to be a perfectly useless waste of the time of the House, to order a reference of the memorial in question to the Committee on Indian Affairs, inasmuch as the subject-matter of the memorial was generally and fully presented to Congress by the President's Message, and was by an order of this House referred to the Committee on Indian Affairs. Mr. T. said he did not wish to provoke discussion upon the subject alluded to, because that was not the proper stage for its discussion. He was, however, prepared to meet the question then and at all times.

Mr. SPENCER, of New York, said he had waited to see whether the mover of the memorial, or some other gentleman, would rise and repel the allusions of the gentleman who had just sat down. Since this had not been done, he felt himself called upon to speak as a representative of the State from which the memorial emanated. This was not the result of "a meeting in a grog-shop," as had been so unjustly insinuated, but one of the utmost respectability, and held in an enlightened and moral community. The chairman of that meeting was a revolutionary officer, known, respected, and beloved. Mr. S. said he knew many of the individuals whose names were attached to the memorial, and he knew their standing to be of the most respectable character; and the doctrine which had been here advanced, that they ought not to be heard—that their respectful memorial ought not to be received by this House, was one which he had not expected to hear advanced, and against which he must enter his solemn protest. The language of the memorial was decorous and respectful. It was true it was upon a delicate as well as an important subject; but, however unfashionable the doctrines which it advocated were upon this floor, or however much they might clash with his own sentiments, or those of others, it was not to be submitted to, that the respectable memorialists should be refused to be heard. He hoped, therefore, that the memorial would have its appropriate reference to the Committee on Indian Affairs, and meet with that consideration and respectful treatment to which it was entitled.

Mr. WILDE, of Georgia, said, inasmuch as the memorial had been laid upon the table, at his request, a few days since, for the purpose of giving time to examine its contents, it might

be expected of him to say a word or two on the subject. Without professing any particular skill in the signs of the times, it seemed to him, from movements in that House and elsewhere, that the question of our Indian policy was destined to create much feeling and discussion. He did not mean to say that party feeling would mingle with their deliberations, though he feared they would not be entirely free from it.

He rose, not to express, in advance, opinions upon matters of high moment, worthy of grave deliberation; nor should he oppose the reference of this memorial, however objectionable he considered its language. It did not become him, as one of the representatives of a State interested in this question, to manifest any undue degree of sensitiveness to the terms in which the memorialists had been pleased to express their sentiments. But it might not be improper for him to offer a few words by way of comment.

The memorial appeared to have two objects. One was to remonstrate against the opinions of the present Chief Magistrate, in regard to the Indian tribes. The other to stigmatize the legislation of particular States. He did not understand, from reading the memorial, that the memorialists complained of any injury or injustice to themselves. The suggestion was, that other persons, not citizens of the United States, have reason to apprehend evil from the course pursued towards them by the President and some of the States. Now, sir, said Mr. W., when any one is injured, it is time enough to complain; and it is well enough, usually, to let those who are injured complain for themselves. For though it has been said by a great moralist, that the fate of complaint is to excite contempt rather than pity, no one has been persuaded by the adage to suffer and be silent.

Whence, then, the necessity of the petitioners' interference? Might they not be told that every one was ready enough to detail his own grievances? Was it less true now than formerly, that, if everybody would take care of themselves, and of their own business, everybody and everybody's business would be well taken care of? Give me leave, sir, said Mr. W., to ask, why, according to their own statement, these petitioners came before this House? They set forth no grievance of their own or of their fellow-citizens. They suggest no remedy resting in the action of this House for the real or imaginary grievances of others. Why may we not as well entertain supplications in behalf of the suffering people of Ireland or Hindostan? In what character, he inquired, did the memorialists present themselves? Was it as self-constituted guardians of the public faith? Were they voluntary superintendents of the treaty-making power? Curators by assumption of the persons and property of the Southern Indians? or censors—he knew not by what right—of the Legislatures of sovereign States of the Union?

JANUARY, 1880.]

*Southern Indians.*

[H. OF R.]

Taking their own showing, they applied to us, because the President refused to recognize the sovereignty and independence of some savage tribes; and because certain States, within whose territory they were at present found, contemplated extending their laws over all persons included in their constitutional and chartered limits.

And what then, sir? continued Mr. W. If these barbarous hordes are indeed sovereign powers, it belongs exclusively to the President to regulate the diplomatic intercourse with them. If an ambassador acceptable to the Cherokees should be required, the deep learning of the memorialists in the law of nations, he trusted, would not be overlooked. But at present it was the pleasure of the President only to maintain an agent near the new Government.

Mr. BELL, of Tennessee, said he did not rise to enter into the discussion of any matter connected with the question of the policy which this Government should pursue towards the Indians. He wished, however, to express his regret that, upon a mere question of reference, any thing should be said by gentlemen from any quarter, tending to call forth a discussion, which was premature, which could result in no good, and for which the House could not then be prepared. Mr. B. said he had not availed himself of the privilege of examining the language of the memorial for himself, but he had learned from others, who had done so, that it was not of such a character as to exclude it from the House; he could, therefore, see no good objection to its reference to the proposed committee, and he hoped it would be so referred without further argument. He concurred with the gentleman from New York, (Mr. SPENCER,) that the subject referred to by the memorial was one of great delicacy and importance. It was necessary that this House should come to a decision upon some of the questions presented by the present condition of the Indians, at this session of Congress. The whole subject would shortly be presented to the House by the committee which had it in charge; and when, in this way, some distinct proposition was presented, gentlemen would have ample opportunity of expressing their views upon whatever side of the question they might feel it their duty to array themselves. As an individual member of the House, and looking to the necessity of forming some opinion upon the subject to which the memorial related, he was pleased that all the information, in the power either of individuals or public meetings to give, should, in some shape, be brought to the notice of the House. He would not object to memorials, that they contained nothing more than expression of feeling in relation to this subject; but he was particularly gratified with the presentation of memorials coming from a source so respectable and enlightened, as the gentleman from New York (Mr. SPENCER) had assured us this one had

come. He trusted it contained some original matter, some new views upon a question of so much importance. As a member of the committee which had this subject under consideration, he would feel obliged by the reference of as many such memorials as might be presented from any quarter.

Mr. DRAYTON, of South Carolina, said, the sole ground upon which he opposed the commitment of this memorial was the language in which it was couched. The memorialists, in common with other citizens, said Mr. D., have the constitutional right to petition Congress for the redress of grievances. As they possess the right, it is for them to decide what are the proper occasions for its exercise. The only limitation which has been, and which, in my judgment, ought to be imposed upon those who address the Legislature, is, that their language should not be indecent or disrespectful. But this memorial so plainly offends against decorum, that we should, it appears to me, be wanting in what is due to ourselves and to those whom we represent, were we to permit it to be referred to any committee of the House. Having taken it up within a few minutes, I have not been able to peruse it entirely. I have glanced over it, so as to collect its object—the temper of its framers—the general scope of their reasoning, and the conclusions at which they have arrived. Although the proposed object of the paper is to demonstrate that to the Indians, rightfully, belong the territories which they occupy, yet it is evident that the real intent of those who subscribed it is to show that the State of Georgia, in her conduct towards the Cherokees, has committed an infraction of the constitution, and departed from the obligations imposed upon her by treaties and by the principles of justice and humanity. The memorialists “call the attention of Congress to the relations which have always existed between Georgia and the Creek and Cherokee nations of Indians. Treaties (they state) were repeatedly made between the colony of Georgia and Indian nations residing, &c., &c., and always upon the ground of the distinct national character of the Indians,” and of their right of soil and “of sovereignty within their national limits.” Reference is then made to treaties between Georgia and the Cherokees, upon the same basis, since she became an independent State, “which are binding upon her in honor, law, and conscience.” It is a fact of which none of us are ignorant, that the Legislature of Georgia passed a law before the date of this memorial, directing, at a future period, a division of some of the lands of the Cherokees, (considered to have been ceded to the State by treaty,) and declaring that the laws of Georgia, after a certain time, should be binding upon the Cherokees within her limits. Of the propriety or impropriety of this legislation, I shall not now speak. I have noticed it merely to show the application to the State of Georgia of the following passages:

"Your memorialists cannot avoid the conclusion that the bringing of State laws to bear upon the Cherokees without their consent, or the division of their lands among the citizens of any State, would bring great and lasting disgrace upon our country, and would expose us as a people to the judgment of Heaven." Congress is then implored to interpose, in order that our national character may be preserved "from so indelible a stigma, and is solemnly invoked, by that abhorrence which every upright legislator will feel at the suggestion of measures that will rest upon the brute force, by the apprehension of Divine displeasure, &c., by all these considerations to interpose and save the Cherokees from such injustice and oppression as can hardly fail of accomplishing our ruin, and of bringing opprobrium and perpetual shame upon our country." Sir, no one can doubt, for a single moment, that the passages which I have extracted from this memorial, directly and unequivocally charge one of our sister States with trampling upon all laws, human and divine, under the instigation of the most foul and criminal motives—with the perpetration of deeds which ought to excite the abhorrence and execration of civilized man, and call down the malediction and vengeance of an offended Deity. Can petitions for the redress of grievances not be preferred, without abuse and crimination? I do not attempt to take away, or in the slightest degree to impair, the right of petitioning Congress. All I require is, that this right should be so exercised as not to be diverted from its true intention by grossness and abuse; with this limitation, the right will be preserved, without being degraded. We ought surely to pay as much respect to a sovereign confederated State, as to an individual; and would any member of this body feel himself authorized to present the memorial of an individual, containing such language as I have quoted? The questions involved in this memorial are of momentous interest. I have reflected upon them sufficiently to convince me of their complexity and their delicacy. However embarrassing they may be, we shall be compelled to examine into, and to decide upon them. I do not desire to postpone their consideration. All I desire is, that a constitutional right should not be converted into a vehicle for opprobrious epithets, and that the Legislature should not lend its aid to the circulation of what grossly violates common propriety and common decency. With this view, Mr. D. moved that the memorial be laid upon the table. He, however, withdrew the motion at the request of

Mr. LUMPKIN, of Georgia, who acknowledged (for it was known to all his acquaintance) that he was sufficiently sensitive upon subjects relating to himself; and it was known to this House that he was equally so upon all subjects relating to the rights, honor, and character of the people and State which he had the honor in part to represent. Moreover, he believed he

had not one constituent who would suspect him of being deficient in zeal and fidelity upon all subjects relating to their interest. Nevertheless, he must express his deep regret that this memorial, emanating from a few enthusiastic citizens of New York, was not permitted to go to the Committee on Indian Affairs without opposition, and thereby have prevented this premature discussion. He regretted the motion of his colleague (at the time it was made) to lay this paper on the table, because, if it had been permitted to go to the committee, we should have avoided this untimely consumption of time, and premature excitement of feeling, upon a subject of deep and grave importance, not only to Georgia, but to the whole Union.

Mr. L. said, that, for two years past, by day and by night, in sickness and in health, he had used his best efforts to get the Indian subject in a general and digested form before this House. The records and proceedings in this House would bear him out in saying that the general plan for Indian emigration, now under the consideration of Congress, had been repeatedly urged by him (Mr. L.) for two years past; and he would now take the liberty of saying, that one of the greatest obstacles which had impeded his progress, and, as he believed, his success, might be traced in the disposition in this House prematurely to enter upon the discussion of the Indian subject. It is known to this House that the whole subject of our Indian relations has been brought before Congress by the President of the United States in his Message at the commencement of the present session; and has been referred to the Committee on Indian Affairs, of which he was a member; and, therefore, he felt himself justified in saying that that committee is and has been assiduous in labor and industry, in endeavoring to perform the important duties confided to its charge. He, therefore, regretted, that any portion of the delegation from Georgia, or any other member of the House, should subject themselves to the imputation of stifling the most full, free, and ample investigation upon this subject, in all its various bearings. As regards the paper which has given rise to this discussion, his views coincided with the gentleman from South Carolina (Mr. DRAYTON) and that of his colleagues. He considered this officious act of the petitioners (to speak in the mildest terms of it) as an impertinent intermeddling with other people's concerns. But, sir, said Mr. L., I would most gladly hear and carefully examine all that can be said by every individual in this Union who thinks with these memorialists, including all the William Penns of the whole land. I want the whole subject fully and fairly before Congress. Sir, I am not vain in believing that the conduct of Georgia, in relation to the Indians, in the prosecution of her rights, will not only be justified to this House, but to nine-tenths of the people of this Union, if we can have an ample discussion upon the subject in all its bearings. Instead of

JANUARY, 1830.]

*Southern Indians.*

[H. OF R.]

a Georgia question, in relation to Indians, I wish to present to the consideration of Congress, and the people of the Union, a systematic plan, and policy in relation to the Indians, which shall not only relieve my own State, but every other State and territory in the Union, of their present perplexities in relation to the rights of the States—the rights of the Indians, as well as the rights of this Government, in relation to this Indian subject. Sir, it is time to have a definite policy upon this subject. The jurisdiction of all the conflicting parties must be defined. Your committee, upon this subject, are using their best exertions to lay before you all the facts which they can collect, connected with the subject, and which are calculated to aid in arriving at a just decision. I, therefore, do hope we shall not again suffer ourselves to be excited into a premature discussion of this subject, by those whose ignorance of the subject is the manifest cause of their zeal and forwardness.

Mr. WAYNE said he was in favor of the proposition of the gentleman from South Carolina, (Mr. DEAYTON,) and he should vote with him on the present question. He took this occasion to return his thanks to that gentleman for the stand which he had taken, in making his motion to lay the subject on the table; and he should have done so himself, had it not more properly devolved upon an older member of that body. He hoped the memorial might be read, that gentlemen might judge for themselves, whether it was couched in decorous terms. He therefore moved its reading.

[The reading of the memorial at length, by the Clerk of the House, here took place.]

Mr. MALLARY observed that he was not aware that difficulties could ensue upon the subject before them. A great number of respectable citizens had memorialized Congress on a very important subject. It had been said by the gentleman from Georgia, that it would be much better if persons, instead of taking care of the business of others, would attend to their own affairs. But what, said he, are to be considered as our affairs, and what are the affairs of the nation? Has not the President of the United States himself recommended, in his Message, the subject to the consideration of the Committee on Indian Affairs? And why, therefore, should objections be raised to the reference of it to that committee, by those who laid claim to the character of genuine republicans? Mr. M. proceeded to contend in favor of the memorialists to admonish, if he might use the term, the members of the National Legislature, upon the subject of any public measure in contemplation, and also to express their opinion as to what might be the probable consequences or results of their decision. He thought that the citizens of the United States, under such circumstances, had the right not only to express their opinions, but also to urge their arguments in support of such opinion.

Mr. THOMPSON, of Georgia, said he certainly did not rise with a view to prolong the debate. On the contrary, it was with extreme regret that he had seen the debate take the range which it had already done. But the gentleman from New York (Mr. SPENCER) had seemed to intend to fix on him (Mr. T.) the charge of having not only unnecessarily provoked debate upon the merits of the subject referred to in the memorial, but of having done injustice to the memorialists. Mr. T. disclaimed having said, or intended to say, any thing (when he first addressed the House) on the merits of the important subject referred to in the memorial. He had read that paper, and, as a representative of the people of Georgia, he felt indignant at the insult apparently intended to be offered by the memorialists to that State. He repeated what he said when he addressed the House before, that he had no intention of opposing the proposed reference. That he had implicit confidence in the integrity and intelligence of the Committee on Indian Affairs, who already had the subject under consideration. That he had the fullest confidence in this House, and in the American people, as well as in the perfect fairness of the claims of Georgia, and that, therefore, he did not fear the result. Mr. T. said, that, but for the assertion of the gentleman from New York, (Mr. SPENCER,) that the memorialists are gentlemen of respectability, the ungenerous, illiberal, and indecorous language used by them towards Georgia, would justify the belief that the memorial was the result of an accidental meeting at a grog-shop. Mr. T. said he was a Georgian, and had the honor to be one of the representatives of the people of that State. He asked the gentleman from New York, therefore, if it were possible that an apology could be expected from him. Mr. T. repeated what he said when he first addressed the House, that a reference of the memorial in question was superseded by a submission of the subject at large to the Committee on Indian Affairs, through the President's Message; and he would now add that the vast accumulation of trash which appeared in the columns of the National Intelligencer over the signature of William Penn, and circulated through the United States during the last summer, did away any necessity which ever in the conception of the memorialists might have otherwise devolved upon the people of New York to take the Indians located in Georgia under their special care and protection: for, if gentlemen would take the trouble to compare the memorial with the essays before alluded to, they would find that the memorialists have consulted their convenience, by taking such parts of the arguments used by William Penn as are the least profound, and, therefore, the least troublesome to the intellects of the memorialists. But with what grace, Mr. T. asked, do complaints against Georgia come from the land of the Mohawks, the Norridgewocks, the Pequods, and Narragansetts? Mr. T. said, the



gentleman from the North (Mr. MALLARY) had taken exceptions to the maxim, that "if everybody would attend to their own business and let others alone, everybody's business would be well attended to," as quoted by Mr. T.'s colleague, (Mr. WILDE.) Mr. T. asked how the gentleman from Vermont would like a substitution of the maxim, "Physician, heal thyself." He deprecated the idea, in conclusion, that his intention had been either to provoke discussion, or oppose the proposed reference, and expressed a hope that the discussion would for the present be discontinued.

Mr. STORRS, of New York, said that no one could deny that the subject-matter of the memorial pertained to the business of the House. The President had called the subject to the notice of Congress at the commencement of the session, and invited the special attention of the House to it. The honorable gentleman from Tennessee, at the head of the Committee on Indian Affairs, (Mr. BELL,) had also invited its reference to that committee as a matter to be properly disposed of in that way. If the memorial was, therefore, on a subject pending here, he (Mr. S.) could not discover, as clearly as some gentlemen seemed to, how that which was of such interest to the whole country, should not have been a proper subject of petition to this House from these memorialists as well as anybody else. It was said, however, that the language of it was indecorous to the State of Georgia. He did not understand it to be objected to the memorial that it was at all disrespectful to the House—but it was said that it was not to be treated here with favor, because it imputed to other persons motives or conduct calculated to bring them into disrepute. Now, sir, said Mr. S., it becomes us to remember, here, that this right of petition has been deemed so sacred that its security has been provided for in the constitution itself. It is a right to be tenderly dealt with. This petition is not addressed to "His Most Sacred Majesty," or laid at the foot of a throne. The memorialists are our own constituents—the free people of this country—and addressing us, their own representatives. It is their right to speak to us—and to speak their opinions frankly and fearlessly, and it is our duty to listen to them respectfully. We can only require, on the other hand, that they speak in respectful terms of this House. Beyond that, I doubt if we have any moral right to inquire. If we undertake to criticize the language of these appeals from our constituents to this House beyond that point, we may overstep our own limits, and, under the notion of repudiating their petitions as disrespectful, we may in fact abridge the right of the people to petition their own representatives. If we are now to deny to these petitioners a respectful notice of their complaints, because they are supposed to have spoken of one of the States in terms which that State might consider offensive, why should not we at least set up the same rule for other

departments of our own Government? We should then realize more distinctly the nature of the principle we have heard advanced in this debate. If our constituents were to petition us for an impeachment of the Executive or the judges of the court, and charge them with injustice, oppression, and usurpation, in unlimited terms, should we repudiate their complaints because we might be disposed to feel a tenderness for these high functionaries? If they speak respectfully of this House, it is all which we have a right to require for ourselves. I will not say whether, if this petition was presented to the Legislature of Georgia, it should be considered so respectful to that State, as to entitle it to favorable notice there. Georgia would determine that for herself. But it is enough for us that it contains no imputations on this House. Whether the conclusions which the petitioners have drawn from their own views of the subject, to which they call our attention, are just or not, is not the question at this time. But it is a question on which we may be called at this session to act as their representatives; and, as they have the right, as our constituents, to be heard on any question here, which in their opinion may affect the interests or the character of the country, we are bound to treat their complaints with great respect. If we are to err at all on so delicate a point as the right of petition involves, we had better err on the other side. Mr. S. then proceeded to examine the passages which had been alluded to as particularly disrespectful to the State of Georgia, and said that he considered the terms used as founded entirely on the hypothetical correctness of the conclusions which the petitioners had drawn from the documents to which they referred. But whether these terms were in any sense disrespectful to that State or not, he did not admit the right of the House to determine for the petitioners. If they treated the House itself with respect, it was all that the House had any right to require of them.

Mr. FOSTER, of Georgia, said it was little matter how much gentlemen may deplore the agitation and discussion of this question. They had got into it, and it was impossible for them to retreat. They might as well encounter it first as last. We have heard much, said Mr. F., on the constitutional impossibility of refusing to listen to this memorial, or rather argument, for he was in favor of calling things by their right names. Gentlemen were mistaken in the name which had been given to the instrument before them; but the gentleman from Vermont (Mr. MALLARY) had explained the whole matter. The paper is sent here, not only as a petition or memorial, but as an argument in opposition to the views expressed by the President on this subject, in his last Message to the House. For his own part, he, in common with others, had full confidence in the Committee on Indian Affairs; and he did not oppose the reference of the subject to them;

JANUARY, 1880.]

*Distribution of Public Lands.*

[H. OF R.]

but he was desirous of stripping it of its fictitious character. The many delicate terms made use of in the paper, in relation to the State of Georgia, and its policy, were sufficient indications of the motives which prompted it. It had become fashionable, he said, to lavish abuse upon Georgia and its policy, both in the newspapers and in popular assemblies, and she was now considered fair game—a fair mark for all the shafts of ribaldry; but he could say of that State, in the language of a distinguished individual on another occasion, the policy of Georgia “would stand the scrutiny of talents and of time.” The paper referred especially to the conduct of Georgia; the conduct of the sovereign State of Georgia, (he was glad to see that term had become more fashionable lately than it was two or three years ago,) in her internal relations—and contains threats of the vengeance of Heaven against her. Mr. F. said, if it was desirable that the sentiments contained in this document should come before this House, the gentlemen who advocated it could express them there without referring them to the committee. He said the weakest member from New York could enforce those sentiments as strongly as they were set forth in the document in question. Mr. F. here referred to the condition in which other States stood upon this subject; and said, if this sort of investigation was proper in relation to one State, it was equally applicable to others. But what, said he, would be thought of the citizens of Georgia, should they call upon New York to make restitution to the Indian tribes who once resided within her territory? The doctrine would be considered as monstrous; but now, said Mr. F., that the memorialists reside in the great commercial emporium, they are entitled to all deferential consideration; and it is matter of surprise that their right to interfere in the matter is questioned. Mr. F. concluded by repeating his dissent from opinions expressed in that House on the subject of the memorial.

Mr. AROHER feared that this question would produce a feeling in the House, mischievous, and prejudicial to the performance of the public business. He agreed with Mr. CAMBERLENG on the subject, but would say a word or two on the question which had been debated. It was said the memorial contained language disrespectful towards one of the States of the Union. He confessed he did not perceive it. He had read the petition, and did not find any thing disrespectful; and he quoted the language deemed exceptionable, to show that it was so. The memorial spoke merely of a hypothetical course of measures on the part of Georgia, which would lead to certain consequences, which the petitioners deemed grievous, and to be deprecated. It was the right of all men—not merely freemen, but all men, said Mr. A., to express their fears of what would grow out of an apprehended course of public measures.

This was a memorial of a respectable meeting of citizens—on what sort of a subject? Why, relative to Indian affairs. It would be their just right—no one would deny it—to address us on any of our foreign affairs, said Mr. A.; and should we think of meting out to them the ardor with which they should express themselves to us on that subject, or any other subject of public concern? He put it to the gentlemen of Georgia themselves, whether there was any part of the Union where the people would brook such an assumption by this House, if it were attempted in regard to a memorial from their own State. They were the last people in the Union by whom ardor of language on public topics should be rebuked. Mr. A. concluded by saying, that if the gentleman from South Carolina should press his motion to lay the memorial on the table, he, (Mr. A.,) though a Southern man himself, must object to it, and favor the reference of the petition.

Mr. McDUFFIE said that, if the discussion upon the matter were further prolonged, it was obvious that the presentation of petitions on the part of the States which had not yet been called over by the Speaker, must be deferred until Monday next, and thus a week's time be lost to the petitioners. He saw no prospect of utility from a continuation of the debate in the present stage of the affair; and he should therefore move the previous question.

The motion was sustained; and the main question recurred as to referring the memorial to the Committee on Indian Affairs.

Upon this Mr. REED asked for the yeas and nays; but the call was not sustained, and the question was, upon a division, carried in the affirmative.

So the memorial was ordered to be referred to the Committee on Indian Affairs.

WEDNESDAY, January 18.

*Distribution of Public Lands.*

The House resumed the consideration of the resolution moved by Mr. HUNT on the 17th of December ultimo, concerning a distribution of the public lands among the several States.

Mr. BURESS said, that whatever might aid education and extend intercourse among the people throughout the various parts of the country, always did, when brought to the consideration of the House, appear before its members attended by circumstances of deep and vital importance. The resolution offered by the gentleman from Vermont, (Mr. HUNT,) proposed to give such appropriation to some portion of the national funds, as would facilitate the operations of both these sources of national improvement. However desirous I may be to aid this proposition, said Mr. B., yet, feeling myself within the interdiction of that rebuke so graciously bestowed on a gentleman whose State had ceded no lands to the Union, I shall, first of all, offer some reasons why a representative from such a State may be permitted to

mingle in any debate concerning a disposition of the public lands. It is true, Rhode Island neither did, nor could, in the great revolutionary conflict, make any cession of broad lands or more extensive claims, in aid of the war, or of the confederation. The great founder of that State was able to find no longer space than its very limited territory, wherein, for the first time, among all the kingdoms and colonies of this world, a Christian man might, at that time, obtain full permission "to hold forth a lively experiment, that a civil State could best stand and flourish with the utmost freedom, in religious concerns." Although Rhode Island could not do what more fortunate conditions enabled other States so liberally to perform, yet, in every great passage of arms, and in all which might illustrate patriotism or signalize valor, she stood in the very first rank of devotedness and achievement. History will continue to do justice to all the efforts of all the States in their revolutionary contest. Should it ever be otherwise, and the North become oblivious of these things, the honor and magnanimity of the South will not suffer them to be forgotten.

The lands comprehended in the resolution have been acquired by disbursements from the common funds of the nation. The history of your finances will disclose the several amounts contributed to these funds by the several States. New Orleans is the great port of entry for nearly the whole valley of the Mississippi. Since Louisiana became a part of the United States, and up to the year 1826, about fifteen millions of dollars have been paid into the United States Treasury by the collector of that district. If all the goods on which this revenue was collected were consumed in the States on the right and left banks of the great river, the division of this amount among those States will show, for twenty-three years, their several contributions to the national funds. Averaged upon the whole nine, the annual amount of each is about sixty thousand dollars. The little State of Rhode Island has, yearly, ever since becoming a member of this Union, contributed not less than four times that amount. If it be contended that those States have paid more, because they have consumed large amounts of commodities, brought coastwise to New Orleans, or over land from Atlantic ports, it may be replied that Rhode Island has likewise paid more, by consuming goods brought into that State by the same kind of trade. If this statement do not give an accurate view of the relative contributions of these States to the national funds, it will give, what it was intended to give, something like a sufficient reason for permitting Rhode Island to be heard on any question concerning lands acquired or purchased at the national cost.

Neither the patriotism nor the efforts of other States is drawn into question. In the revolution each of the "old thirteen" did all which courage could dare, liberality contribute, or

unwearied labor perform. The new States, had they at that time been in existence, would not have deserted the cause, or dishonored the generous stock from which they are descended. Could the patriotism of our days be warmed by the spirit of those times, and every lip be purified by fire from the hallowed altar of the revolution, this debate might receive a new character; and in the generous strife for the general welfare, each State, not unmindful of our high character in former times, would struggle for pre-eminence in liberality of contribution. With as much of these feelings and principles as I can bring myself, and as much as I can invoke to my aid from others, I ask for the indulgence of this House while I go into some consideration of this amendment.

It may not be in order to consider the resolution itself, unless it can first be demonstrated that the amendment, if it prevail, will, in effect, destroy this resolution. If that can be evinced, then every argument in support of the resolution will be an argument against the amendment.

The resolution proposes "That a Select Committee be instructed to inquire into the expediency of appropriating the net annual proceeds of the sales of the public lands among the several States and territories, for the purposes of education and internal improvement, in proportion to the representation of each in the House of Representatives." It is moved by the gentleman from South Carolina (Mr. MARTIN) to amend this resolution, so that the committee should further inquire "into the amount and value of the public lands which have been given by Congress to any State, or to any public institution in said State." The gentleman from Indiana (Mr. TEST) has, in debate on this subject, announced his intention to move an amendment to this amendment, should it prevail, to the intent that the same committee may further inquire, and report to this House, the whole amount expended for national purposes in all the other States.

Now, sir, can any proposition be contrived, more effectually calculated to subvert and destroy this resolution, than those contained in these proposed amendments? If the first prevail, the second will be offered; and, if justice govern the decisions of this House, it will as certainly be adopted. With these two amendments incorporated into this resolution, what Representatives, from what States, will be disposed to vote for it? Under the first branch of the amendment, your committee would be charged to inquire what quantity of public lands, and what amount of money, have, at any time, been granted to any of the new States. These must comprehend the reservations, whether of sections or townships, for primary, academic, or collegiate education; the grants, at various periods, for roads and canals; the expenditures for improving the navigation of rivers, together with the whole amount disbursed, during almost thirty years, on the great na-

JANUARY, 1830.]

*Distribution of Public Lands.*

[H. OF R.]

tional highway from the Atlantic waters far into the Western States. If true to the principles of justice, and to the interests of the United States, though forgetful of their own, the gentlemen from the Western States can never vote for this resolution, so amended, as to induce a report upon such inquiries. Such a vote will acknowledge those States to be accountable for those grants and expenditures; and that their several portions of them ought to be charged upon their several annual dividends arising from the sales of public lands under the system proposed by this resolution. It can never be expected that men will ever be found in such hostility to their own interest, when uncalled to it by any great claims of justice. The representation from these States will, therefore, be found unanimous against the resolution, when thus amended.

The committee, under the second amendment, will look into all the old States. They must then take account of all expenditure, since the establishment of the Federal Government, made for national purposes. The items of this account will be all the numerous and heavy appropriations, from year to year, for clearing rivers and harbors; for the building of moles and breakwaters; for light-houses upon the whole coast; for custom-houses in every collection district; for armories, arsenals, fortifications, dock-yards, and naval stations, together with all other the immense and necessary expenditures for land or maritime defence, on the whole Atlantic frontier. What gentleman, representing any of these States, will sit here, and by his consent sanction this inquiry? The very supposition is preposterous. If, therefore, the amendment moved by the gentleman from South Carolina, and that suggested by the gentleman from Indiana, are adopted, the resolution will never be passed by this House. Place them upon it, and, like the asp on the bosom of the Egyptian queen, they will bring death with their contact.

Under this view of the question, the whole subject of the resolution, with all the reasons for adopting it, are so many arguments for consideration in discussing the amendment. This resolution places before the House, as upon a great chart, the public lands, the extensive national domain. The gentleman from Indiana (Mr. TERRY) has called our attention to a consideration of the manner of acquiring some parts of it. We are cautioned by him against appropriating these lands to any object which may come in conflict with the will of the donors, in their deeds of cession to the United States. Men may fairly differ concerning the pecuniary value of these cessions made by the several States; but no one, conversant with the history of our revolution, independence, and confederacy, can for a moment question their high and patriotic motives. Those motives ever have been, and always will, as I trust, be duly appreciated; nor shall any examination by me of the history and condition of those lands,

either before or since their cession, deny to Virginia her merited pre-eminence in these deeds of devotedness to the union and interest of our common country.

We must not, however, imagine that the region covered by those cessions, and which is now separated into seven new States and two large territories, was, at the time of making them, any thing like so many millions of acres of fee simple, then in possession and at the disposal of the ceding States. Not a foot of all which is comprehended in those States, or in the proposed resolution, was then holden, or claimed to be holden, as land, as freehold, under any of its legal descriptions. The ceding States claimed, and they relinquished claims; but they neither claimed nor relinquished to the United States fee simple. The House will excuse me if I go into some history of this subject, when it is observed that gentlemen discuss this question, as if the United States had acquired by this cession, and for no valuable consideration, a title to many hundred millions of acres, then held by certain of the several States quietly, and in the very highest degree of ownership.

History does not authorize us to say that the sovereigns of Europe ever claimed soil and freehold in the New World by right of discovery. Navigators and travellers in the employment of those sovereigns discovered the several parts of this continent for their respective princes; and they, under those discoveries, claimed all the rights, whatever they may be, so acquired, to their own use, and to the exclusion of all other people and potentates. These claims always recognized the rights of the aboriginal owners of the country; and, however incompatible with those rights any project of colonization in North America might have been, no European prince, either temporal or spiritual, ever denied them. No one of these princes ever attempted to plant colonies by force of conquest. They claimed, by virtue of discovery, the exclusive right to purchase the soil of the primitive owners. This was, then, precisely what is now called the right of pre-emption. The acquisition of fee simple, in this country, by conquest, papal proclamation, or royal charter, was unknown in the theory of North American colonization. The charters of these sovereigns might sometimes convey less, but they never conveyed more, than this right of pre-emption. Under such charters, and by the exercise of this right, American land titles in our country, whatever they may be, have been acquired.

It will be recollected that the first charter was granted to the London Company by the Sovereign of England for the settlement of Virginia. This covered all the lands from Old Point Comfort, two hundred miles south, and two hundred miles north; and thence, "west and northwest, to the Pacific Ocean." A charter for the settlement of New England was soon after granted to the Plymouth Company,

by the same power, and with still more extensive limits. It covered all the region, from the fortieth to the forty-eighth degree of north latitude, lying between the two great oceans which wash the shores of our continent. A subsequent charter, for settling the Southern States, was, in like manner, granted to another company. This extended, on the coast, from twenty-nine to thirty-six and a half degrees north latitude, and covers the whole region, from the Atlantic to the Pacific Ocean.

The opinions of the geographers and voyagers of those days should not be forgotten. They regarded these continents as narrow belts of land, obstructing their course to the much richer regions of the eastern India. Every bay and inlet was explored; and they thrust their ships into them, expecting to shoot through into the great Pacific Ocean. The English monarchs, who granted, and the companies who received, these charters, could never have expected that the States formed under them would contain more territory than they, at this time, actually cover. Nor was it believed that the prerogative of the English crown had exhausted its power to grant new charters, within the grants to those companies. The great right of pre-emption, or power to treat with the Indians for the title to lands, might be resumed, whenever the interests of the crown, or the colonies, should require such resumption. On this principle, the charters of all the colonies west of Connecticut, and within the charter of New England, were afterwards granted.

While the English colonies were forming under these charters, the French monarch had pushed his discoveries and settlements from the Gulf of St. Lawrence, up the river, to Quebec and Montreal, and from New Orleans almost to the source of the Mississippi. The condition of things produced by these events, both in Europe and America, excited between France and England, and between the American colonies, the war of 1756. It is well known that France claimed not only the whole pre-emption right of the whole territory north and west of New England, but also that of the entire region between the high lands and the Mississippi, on the left bank of that river, from the lakes to the Gulf of Mexico. During that war, the famous family compact between the two great monarchs of the house of Bourbon was made, and brought to bear on the conflict.

The English colonies had a full view of this important controversy. They knew it involved the great question whether Englishmen should colonize and settle the whole region, from the Gulf of Mexico to Hudson's Bay, and from the ocean back to the fountains and stream of the Mississippi; or whether France and the colonists of France should be settled around throughout those extensive regions, and cut them off from the waters of the North and the West. Neither nation claimed the soil, except where colonies were established; but both did claim the right of discovery, pre-emption, and

settlement. This great question of arms involved these claims and rights to one large part of the lands now under consideration; and the English colonies, making it a common cause with the mother country, sent into the field of conflict all their force and valor. It was a seven years' war, exhausting, bloody, and exterminating; for the colonies, on their part, contributed to it an army of twenty-five thousand men. All made their best and bravest efforts; but New England, never in arrears in the contribution of toil and blood, furnished full two-thirds of this army. The contest was terminated, the question forever settled by the treaty of Paris, in 1763. The crown of France relinquished to the crown of England all her North American claims. This relinquishment comprehended the French claim, by discovery or otherwise, to the right of pre-emption, in all the region now covered by the limits of the seven States on the left bank and in the valley of the Mississippi, and the two territories between the lakes and that river.

It should be remembered that no settlements had, at this time, been made by the Atlantic colonies, so far north as the great lakes, or so far west as the ridge of the Appalachian mountains; nor had, or did any of them, under their charters, claim the right of pre-emption to any of the lands bounded by those lakes and the Mississippi, or watered by the streams falling from those mountains into that river. The right was then claimed by the crown of England, as the head and sovereign of the British empire. This fact is established by the proclamation of that monarch, made and given by him, in council, on the 7th of October, 1763. Among other extensive colonial provisions, it announces that, "whereas it is just and reasonable, and essential to our interest and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them or any of them, as their hunting grounds; we do, therefore, with the advice of our privy council, declare it to be our royal will and pleasure, that no Governor or Commander-in-Chief, in any of our colonies or plantations in America, do presume for the present, and until our further pleasure be known, to grant warrant of survey, or pass patents for any lands beyond the head or sources of any of the rivers which fall into the Atlantic Ocean from the west or northwest, or upon any lands whatever, which, not having been ceded to or purchased by us, as aforesaid, are reserved to the said Indians, or any of them."

The rights claimed, and the rules promulgated by this proclamation, have never been questioned by any of the colonies. They demonstrate and lay before the world the great principle and laws of Indian relations with the

JANUARY, 1830.]

*Distribution of Public Lands.*

[H. OF R.]

whole English race, whether with the British crown, the colonies, or the United States; and that, too, from the first settlement in our country up to the present hour. From that time to the commencement of the revolutionary war, in 1775, many and grievous were the impositions and injuries committed by the English Government against the claims and rights of the thirteen colonies. These colonies lacked neither the vigilance to see, nor the ability and spirit to set down in order, and to expose to the English nation and to the world the whole inventory of those injuries and impositions. Examine the entire catalogue, and you will find that the American patriots of those times have not exhibited one allegation against the crown, on account of those claims contained in that proclamation. Colonial vigilance had never discovered in them any infringement of colonial rights.

The Atlantic States, in their struggle for existence with Great Britain, faced the enemy, and kept a steady eye on their powerful adversary. They did not, they could not, look to the West, until success gave some pause to the conflict. After the declaration of independence, after the capture of Burgoyne, and after the treaty of amity and defence with France, the Continental Congress were called, by the minister of that power, then newly arrived in the United States, to deep and anxious consideration of the western boundary. That monarch, mindful of the Bourbon family compact of 1758, had contracted with his brother of Spain to conquer from Great Britain, by American arms, his claims to the western regions, relinquished by him in the treaty of Paris, to the English crown; and, having thus obtained all his former rights under those claims, to transfer the whole territory to the Spanish monarch, and thus unite in that crown the jurisdiction, together with the right of pre-emption and settlement, to the whole valley of the Mississippi, from its source to the Gulf of Mexico.

It is true, the States within the letter of whose chartered limits this territory lay, had, before this time, moved their claims in their legislative deliberations; but this had ever been done with a patriotic view to ulterior measures in favor of the whole confederacy. In Congress it had been looked at as one of the results of a successful conflict with England. Without knowledge of the arrangement of France and Spain, Ministers had been sent to both these powers, to negotiate for aids in the war; but, at the same time, to claim for the United States the centre of the great river as their western boundary.

Among the States, the relinquishment of State claims to the Western territory had, with some of them, become a *sine qua non* to the Union; and unless this was done, protests were entered against the articles of confederation. Congress, on the 6th September, 1780, "*Resolved*, That it be earnestly recommended to such of those States which have claims to

the Western country, to pass such laws, and give their delegates in Congress such powers, as may remove the only obstacle to a final ratification of the articles of confederation." In furtherance of this object, Congress, on the 10th of the following October, "*Resolved*, That the unappropriated lands that may be ceded or relinquished to the United States by any particular State, shall be disposed of for the common benefit of the United States; and be settled, and formed into distinct republican States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other States." These resolutions of Congress finally resulted in such measures in the several States "which had claims to the Western country," that all those claims, under certain reservations, have been by them ceded to the United States for the great objects of those resolutions.

Before these events, and while the war was in progress, the French Minister had placed before Congress the right of his royal master to reconquer from the British crown the "Western country," for himself and the king of Spain, and had insisted on that right, because that country was a part of the British empire, and a fair subject of conquest. Congress replied, in a most able paper, said to have been drawn up by Mr. Madison, that France had, by the treaty of 1763, relinquished all right in that country to the British king, as the sovereign of the British empire in America, and to the use of his British subjects in America, and not to the use of such subjects in Europe. The United States had by the revolution succeeded to all those rights, and that, therefore, any claim of France or Spain to that country would not be a claim against Britain, their common enemy, but against the United States, their friend and ally. Notwithstanding the unanswerable force of these arguments, France and Spain persisted in their claims, and the Spanish court would not receive the American Minister. In this condition of our affairs, so anxious were some of the States to obtain the aids expected from that monarch, and to secure, if possible, the independence of the United States, as then settled and limited, that Virginia, to induce Spain to come into our alliance, did, in the year 1780, instruct her delegates in Congress to procure an amendment of the instruction to Mr. Jay, directing him to relinquish the western boundary, and the right to navigate the Mississippi. France was unwearied in her efforts to procure a relinquishment, by the United States, to all claims to the Western country; and at last prevailed on Congress, in their final instructions to their Ministers in Europe, to add, in reference to the French Ministers, the following words: "And ultimately to govern yourselves by their advice and opinion." This clause was adopted by all the States, except Delaware, Connecticut, Rhode Island, and Massachusetts. These States would vote for

nothing which might impair our claims to the Western country, and the navigation of the Mississippi.

From these instructions, fortunately for this country, our Ministers dared to depart. Had they concluded nothing without the knowledge of the king and Ministers of France, and "ultimately been governed by their advice and opinion," the western boundary of the United States would have been fixed on the highest ridge of the Alleghany mountains; and the whole "Western country" again placed under the jurisdiction and control of the Bourbon family. The English Government, aware of this, and preferring us as neighbors to their northern colonies, let the fact be known to the American Ministers; and Adams, Jay, and Franklin, without being governed by the advice and opinion of the royalty of France, first had and obtained, did immediately, with the English commissioners, make and execute a provisional treaty, not only acknowledging our independence, but establishing the great river as a western boundary. This event, when communicated by Dr. Franklin to the Count de Vergennes, produced his angry letter, disclosing, at once, the policy and intentions of France on the great boundary question; and the reply of Franklin evinced how far the American philosopher excelled the French courtier, not only in sound policy, but likewise in "a point of bienséance."

The House has been detained by this historical sketch, that a full demonstration might be placed before us, of the exact political condition of the "Western country," in relation, not only to the colonies, but also to the European powers, from the time when it was claimed by France, to the date of our definitive treaty with England, by which all claim to it was, as I trust, forever relinquished by those powers to the United States. By this it appears that the whole claim was a claim to the right of pre-emption and settlement, whether vested in France, England, the colonies, or our whole nation; and it moreover appears that this claim, once vested in England, by the common consent, and to the use of all the colonies, afterwards devolved on them collectively by the revolution, and as a necessary appurtenance of independence, won by the common blood and treasure of them all. Within the limits defined by our treaty with Great Britain, all things whatever, which had theretofore been vested in the British crown, were, by our independence, *ipso facto* vested in the United States, to the sole use of the American people; and that treaty did neither more nor less than acknowledge that fact, and establish a solemn covenant between the parties, to govern themselves accordingly. The patriots of those times in each State not only acknowledged this great principle, but contended for it. The cessions of the several States never conveyed, and were never intended to convey, any right to the United States, not already vested in them.

These cessions were nevertheless made upon great and patriotic considerations, worthy of the times, and the men who made them. They were each of them parts of a great system of accord and satisfaction, made and executed to strengthen the Union, by extinguishing forever all State claims to the right of pre-emption and settlement in the "Western country," and thus leave the United States in the unquestionable exercise of all the rights, in that respect, acquired by our revolution and independence. The reservations made by any of the States do not controvert, but confirm, these principles. Provision for these had been made by Congress, in their resolution of October, 1780. Under the principle of that resolution, the ceding States might and did reserve so much interest in the territory so relinquished, as would cover any expenditure by them made upon it.

By the principles of the revolution, vested with the great right of pre-emption and settlement, and by the cessions of the several States, disencumbered of any conflicting claim, the United States have gone into the exercise of that right, for the common benefit of all the Union. They have by treaties, at various times, made with the Indians, the owners of the soil, purchased it of them for a valuable consideration, either in hand paid, or by annuities stipulated to be paid to them in coming years. By this process, the United States have changed what was, in 1783, in them a mere right of pre-emption, into a clear and unquestionable title of soil and freehold throughout almost the whole of that extensive region, divided into seven States and two territories. Large tracts of these lands, so acquired, have been sold and conveyed to the people of those States and territories; and many grants made to them for public purposes, to encourage settlement, and thereby enhance the value of lands remaining unsold, as a common fund, and for the common benefit of the whole nation. These lands, so remaining, are one part of the subject now under consideration.

Another part of the national domain was obtained by purchase from Spain under what is commonly called the Florida treaty. It is pleasant to look back, and call up the course of events which put the nation in possession of the "Western country." This was the purchase of our first, and, I trust in God, it may be the pledge of our perpetual union. Every man in the nation paid his share of the price. We were united and equal in the toil and the success. In the name of justice, I wish we could so regard our acquisition of territory from Spain. That nation, stately and dilatory in every thing; slow even in her revenge; but magnificent in purpose, and just, when, having gone through all the forms, she arrives at the time of doing justice; that nation, I say, did ample justice to this; when, after years and years of delay, she remunerated our country for depredations committed by herself and her colonies, on property owned, and long claimed,

JANUARY, 1830.]

*Distribution of Public Lands.*

[H. OF R.]

by citizens of the United States. Justice, ample, magnificent justice, was done by Spain in that treaty; but unfortunately it was done, not to those citizens claiming, and of right entitled to receive it. No, sir; it was done to the United States, the agents and trustees of those citizens. The lands ceded to the United States by that treaty are immense, and of unknown value. The mere territorial jurisdiction, acquired by that cession on the east side of the Mississippi, would have been a cheap purchase for the United States, at five millions of dollars. Would you sell it, sir, for twice that sum?

The United States, by that treaty, sold and relinquished to Spain all the claims of American citizens for all depredations committed by Spanish subjects on their property. Had our country covenanted, in the same instrument, to remunerate those citizens for such depredations, justice might have been done. This was the intention of Spain, and this must have been the intention of the United States. The supposition that those depredations could not exceed five millions, and the limiting remuneration to that amount, and the time of seeking it to so short a period, have brought on those citizens extensive and flagrant injustice. Permit me, sir, to demonstrate this assertion. Nearly all these depredations had been done before 1807. In June, 1824, when the time of receiving claims had expired, and the five millions were distributed, the interest, on that amount of claims allowed, exceeded the principal. It is evident, therefore, that, though five millions were paid, much more than five millions were left unpaid. I pass over all those claims, excluded for want of time, within the limits of the treaty. Their amount is several millions. Not less than two hundred thousand dollars were by this lost to me and those with whom I was concerned. One claim, half a million, eminently just, and distressing in its circumstances, has been before this House. It was the fruit and the reward of a life of toil, peril, and disaster in Spain; but by these limitations, and by the manner prescribed for conducting such claims, it was lost, and a very meritorious family are left dependent and destitute.

It is therefore seen that the common funds of the nation did not purchase one-half of Florida, and the other extensive regions obtained by this treaty from Spain. If justice be denied to the merchants of the Atlantic cities, from Maine to Georgia, whose funds purchased two-thirds of these territories, I pray you, sir, do not refuse to their States which have lost, with them, the benefit of this large capital; do not, I say, refuse to them a just and reasonable share in the common benefits resulting to the United States from this purchase.

The other division of the public lands was acquired by negotiations with France. They comprehend the whole region conveyed in the cession of Louisiana. In treaties connected

with this cession, the United States contracted to pay to France, and for her use, eighty millions of francs; and virtually to relinquish all claims of American citizens on that Government for all demands prior to April 30th, 1800. One-fourth of this amount was agreed to be paid to such of those citizens as had claims of a certain description, and who should prove their right of recovery in one year from the date of the treaty. By this arrangement, the United States received from France an immense country, in jurisdiction and in fee simple, together with the exclusive navigation of the Mississippi, and all its western tributary streams. For this the United States paid fifteen millions of dollars in money, and relinquished to France, I will not say as much, but certainly one-half as much more, in claims due before April, 1801, from France to American citizens. Nor is this all. In the Louisiana treaty of cession, the United States contract to admit the vessels of France into the ports of that State, on the terms of the most favored nation. Under this stipulation, France claims to be admitted on the same terms as British vessels, but without paying for it the equivalent paid by the British Government, the admission of American vessels into French ports on the like conditions. Under this claim, and because the United States will not so admit French vessels, the French Government, by way of offset, have hitherto refused indemnity to American citizens for all the spoliation committed by their armed vessels on the property of our merchants since April, 1800. It has thus come to pass, that Louisiana, though on the face of the contract costing the nation but fifteen millions of dollars, has actually been purchased by a further sum of twenty millions, paid by American merchants. With what justice, then, can gentlemen contend that the Atlantic States are not entitled to call, and call loudly, for something like an equal apportionment of the benefits resulting from those lands, when the property of their merchants has been so largely sacrificed for the purchase of them?

The resolution of the gentleman from Vermont (Mr. HUNT) covers the public lands comprehended in these three great divisions, and proposes, without looking back to the cost of acquisition, or any expenditure for improving their value, to introduce and establish a system, which will give, to each State and territory, a share of the proceeds of annual sales, in proportion to its congressional representation. It is intended, by the amendment, to inquire concerning, and to take account of, all such dispositions of any of these lands, and all such expenditure of money, as may have been made to any of those several States and territories throughout the whole region.

The people of the United States have, sir, from the close of the revolutionary war till this hour, looked on the public lands as their own, and equally the soil and freehold and inheri-



tance of each and every one of them. This claim has been kept alive and invigorated by reminiscence of its common origin, and endeared by the various and multiplied appropriations from year to year by us made, as well for them, to their use, as for the universal benefit of this great national inheritance. When, therefore, their title is disturbed, their ownership questioned, and that, too, by brothers of the same family, how will you quiet the controversy? Will the people of the old States quit claim to the people of the new; and that in sight of the graves of their fathers, who won this region as a heritage for all their descendants? Why should they, recreant to their illustrious ancestry, disinherit themselves and their children? Be assured, sir, they will not, while man is man, and earth is his abiding place. Let, then, every effort be made to put this question at rest, in peace and by fair and honest legislation. It may otherwise remain for adjustment, by a process, and in a tribunal over whose record the historian shall shudder as he looks at the legend.

Should it come, and without something like the proposed measure, it may come to the "trial by battle;" should it come to that trial, who will live to say the world ever witnessed such a strife of arms? The visions of fiction have sometimes arrayed against each other the most endeared relations. Here those visions shall be embodied and embattled. Not only these long United States shall sunder, and State against State fly to arms, but brother and brother, father and son, meet in exterminating hostility. Eye to eye, or hand to hand, with no exchange of greeting but the rifle—no salutation but the sword. In such a war, shall not the last red man, who fell by bullet or bayonet, lift his head from the gory sod, and gaze and die with grim delight, while looking on those whom he regards as the spoilers of his race, mingling their blood in impious butchery, on the very grounds of his fathers, and in a most unholy struggle for his and their plunder? In the noise of war and slaughter, imagination shall hear the long buried warriors, the Metacams, the Miantinomos of other fields again mingling their war whoop with the cry of the white man's battle. Men shall see, or seem to see, grim spirits, the chiefs and warriors of other days, approaching from their blessed hunting grounds, in the far off West, or, if driven thence, from "some happier island in the watery waste," horsed on their own clouds in red brigades, "visiting again the glimpses of our moon, and making the night of war and conflagration more horribly hideous."

Once more, sir, and I have done. If this amendment do not prevail, and this resolution is adopted, the provisions of it, when finally adjusted and carried into full operation, will mightily strengthen the Union. For this purpose the sessions of it were originally made. It has been said, a national debt, divided and distributed to all its owners over the country,

does form a cord of Union not easily broken. It may be so; but what is that to the almost infinite number of cords, lines, and filaments, which will, by the provisions of this system, be wound around and unite us together! Distribute to the several States the annual proceeds of the public lands, and, on its way thither, it will make the straight way broad, the rough road smooth. Travel and transportation by our present vehicles will be cheap and expeditious. When we have introduced into our country the inventions already in operation in others, movement from place to place may be so rapid, and exchange of social and hospitable intercourse between different parts of the whole country will become so easy and frequent, that men will almost forget that their homes are in different States, and become really and in fact citizens of the United States of one great republic. By roads, by railways, or by canals, by land, or by water, the produce of any part may, cheaply and with expedition, be placed in the market of any other.

Distribute to every State a fund for education, and it will be divided and subdivided into streams, until it shall reach every town, every village, every plantation, farm, and family, throughout the United States. Let the people once taste of these refreshing streams, and they will look up to the United States, the beneficent source, and regard them with delight and veneration. They would turn their thoughts to them, as the inhabitants of ancient Egypt did theirs towards the fountains of the Nile; and, though not with adoration, yet surely as to the dispensers of the blessings of Heaven.

When this system shall have gone into full operation over all the land, and but one generation has been cultivated and grown up under its fertilizing nature, no demagogue will ever rise up in our country hardy and desperate enough to divert or obstruct the current of its progress. Should a man, in aftertime, on this floor, move to appropriate a single dollar of this fund to any other purpose, he would be hissed through the country by one united cry of abhorrence from every man, woman, and child in the nation.

If, therefore, the United States would make the inhabitants of every distinct district of our territory one people, a nation, united, great, wealthy, and prosperous, let them provide, and put into successful operation in every State, appropriate funds for internal improvement. If our country would render her union and existence perpetual; if she would place deep and broad the foundations of her prosperity; if she would distinguish herself eminently above all other nations of this or any other time; then let her draw high example from Divine benignity, call little children around her, take them in her arms, and bless them with the lessons of pure, early, and efficient instruction.

JANUARY, 1830.]

*Distribution of Public Lands.*

[H. OF R.]

THURSDAY, JANUARY 14.

*Distribution of Public Lands.*

The House resumed the consideration of the resolution moved by Mr. HUNT on the 17th December ultimo, proposing a distribution of the net proceeds of sales of public lands among the several States.

The question occurred on the motion made by Mr. MARTIN, on the same day, to amend the said resolution.

Mr. PERCIE, of Missouri, said: Were he to consult his own feelings, or his own individual interests on this floor, he should not trouble the House with one word more on this subject. But, (said Mr. P.,) when I see a measure pressed with all the powers of argument and of eloquence, the consequences of which will, in my opinion, be highly injurious to the State which I have the honor to represent—a measure which addresses itself to the cupidity of the people of the old States—to the worst as well as the best passions of the human heart—a scheme, whose tendency is to mislead and corrupt the public mind, to cripple the West, and to fix a system of intolerable oppression upon the new States—I should be recreant to the interests of those whom I serve, faithless to the new States and to my own principles, if I did not raise my voice against it. These considerations constrain me to throw myself upon the indulgence of the House, and to solicit their patient attention to the views which I shall present in relation to this interesting subject. Sir, when this resolution was first offered, I was not disposed to engage in a discussion of its merits. Considering it as looking to an inquiry alone, I preferred to forbear making any opposition until something more specific and of a more serious character should be presented to the House. The friends of this scheme have, however, thought proper to enter into a general argument upon its merits, and have left us no alternative but that of abandoning the contest, or of at once meeting them in debate. They have done more, sir. With the intention, as it would seem, of forestalling public opinion, of gaining the “vantage ground,” and of inducing a belief that their arguments were unanswerable, they have intimated that those opposed to the resolution were directing their attention to the amendment offered by the gentleman from South Carolina, (Mr. MARTIN,) but decline arguing the main question involved. Sir, I meet that question: I cannot say I meet it boldly, for I know the argumentative powers and the eloquence of the various interests which this resolution draws to its support. But I meet it in the full confidence of the correctness of the principles upon which I rely; and indulging a hope that, if I fail to convince this House, an intelligent, just, and patriotic people will render a proper decision of the question, I take leave, in the outset, to repel the imputation attempted to be cast upon those who oppose the resolution, that they are influenced by selfish

considerations. The people whom I represent desire no unfair advantages. They ask for nothing but their just and equal rights, and these they are determined to maintain. I trust that my conduct on this floor will not only prove that I request no more, but that, in the discussion of every question here, I shall meet gentlemen in that spirit of candor and of fairness which should characterize the representation of an honest and patriotic people. Sir, I will most sincerely pray, with the gentleman from Rhode Island, (Mr. BUNSWICK,) that we may catch the spirit of magnanimity, of concession, of forbearance, and of disinterestedness, which animated and influenced the fathers of the Revolution. I will go with him to the altar of patriotism erected by them, and there freely sacrifice every feeling, either selfish or sectional—I will pray that the common interests of our common country, of our whole country, may alone influence us in all our deliberations. Sir, I had hoped that that gentleman had long since made this sacrifice—I had hoped to consider the gentleman as one of the connecting links in that bright chain which connected us with our liberal and patriotic ancestors.

Sir, from what has fallen from gentlemen in this debate, from what I have ascertained of the views of members on the subject under consideration, I have been astonished, and a little amused, too, to find gentlemen of all sorts of political opinions supporting this resolution. Yes, sir: I find those who maintain the power in the General Government of making roads and canals, and of providing for a general system of education, supporting it. I find some of those who deny this power supporting it; and I see that description of politicians who are in favor of a compound basis of construction. I mean those who are for splitting the difference between the demands for power on the one side, and the denials on the other, also rallying in its support. I find another description of politicians supporting it; those who express doubts as to the constitutional power of Congress to make donations of the public lands for any purpose, but who think it perfectly clear that we have the power to distribute the net proceeds of the public lands among the several States for the purposes of internal improvement and of education. Not the least amusing of all are the opinions of those who think that we have no power to distribute the surplus revenue (if there should ever be any) among the several States, for the purposes mentioned, but who also think we have the power to distribute for the same purposes the proceeds arising from the sales of the public lands. The gentleman from Pennsylvania, (Mr. BUCHANAN,) takes a distinction. He tells us there is a manifest distinction between the two cases; but he has not thought fit to point it out. Sir, what that distinction is, I cannot conjecture; but if there be a distinction at all, it is against the gentleman, as I shall presently show. When the money arising from the sales of the public lands is paid

into the Treasury, how will the gentleman distinguish it from the other funds of the Government? Has it ear-mark? Can he show that the constitution gives us greater power over one description of funds than it has over another? Sir, the framers of the constitution found it necessary not to restrict the power of Congress in getting money into the Treasury, but they have limited the power as to their getting money out of the Treasury. They granted the power of appropriating money for the purpose of carrying into effect the powers of the Government. And I think it fair to presume that this limitation was intended as a check upon Congress, to prevent them from oppressing the people by unnecessary taxation. It was doubtless considered, that, if the power of appropriating money should be limited, there was no necessity of restricting Congress as to the quantum of revenue to be raised. Sir, the doctrine is held, that Congress can appropriate money for any purpose, even for purposes over which it is acknowledged they have no control. The gentleman from Pennsylvania seems to apply this doctrine to the case under consideration, but denies its force in relation to the distribution of the surplus revenue. Now, admitting for the sake of argument, that Congress has the power to distribute the surplus revenue arising from imports or direct taxation if you please, among the several States for the purposes of internal improvement and education, it by no means follows that they have the power to distribute the proceeds of the public lands for these purposes. In the acts of cession made to the United States by Virginia and North Carolina, are the provisions expressed, "that all the lands so ceded to the United States shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederacy, Virginia and North Carolina inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other purpose whatever." The same is strongly implied in the cessions made by other States. At the time of making these cessions, each State had to contribute its share in the general charge and expenditure of the confederacy. These lands were then ceded for the common benefit, and for the purpose of raising funds for the support of the Government, so as to diminish the sum required by each to supply the common treasury. The proceeds of these lands are consequently directly pledged as a fund out of which to defray the expenses of the then existing Government; and I ask if, under the old confederation, it would have been competent for Congress to have distributed these funds for the purposes named in the resolution now under consideration? If not, can it be pretended that Congress under the present constitution has greater powers in relation to these lands than it had during the confederation? Can

they change the objects of the grant? If they cannot, what becomes of the distinction spoken of by the gentleman from Pennsylvania?

I have alluded to the conflicting opinions of the supporters of this resolution, not with a view of pressing an argument on constitutional grounds, but with the intention of throwing gentleman back on their original principles, with a view of showing a reasonable ground for my apprehensions that the friends of this measure are more influenced by feelings of interest than by their unbiassed judgment. Has the time come, sir, when we are to blot out and begin anew? Are the principles of all parties to be abandoned in this scramble for the public treasure? Are the honest opinions of the people to be brought up by the miserable pittance arising from the sales of the public lands? Sir, whenever this Government shall be destroyed—whenever this blessed Union shall be divided, (and the gentleman from Rhode Island says he expects it will be some time next summer,) whenever tyranny or anarchy shall be our portion, the faithful historian will trace the cause of such a calamity to schemes like this—to schemes which tend to corrupt the principles and feelings of the good people of this Union by the money of the General Government. I can conceive of no state of things more dangerous than that which will find the people of these States looking to the Treasury of the General Government alone, expecting from that source to be fed, clothed, and educated; and ready to surrender all their principles, constitutional and moral, for the accomplishment of their objects. The time seems already come, when gentlemen, in the language of the member from North Carolina, (Mr. FORREX,) are determined to get their share of every dollar in the public Treasury.

The opponents of this resolution have asked why this measure is pressed upon us, while the whole subject of distributing the surplus revenue among the States has been submitted for inquiry to a Standing Committee of this House? We have received no answer. Sir, I rejoice, and I hope the gentleman from Rhode Island (Mr. BURGESS) will rejoice with me, that the President has directed our attention to the principles upon which this Government is founded. I am glad that he has reminded us that there were limitations on the Government—for I fear that some of us would otherwise have forgotten it. We hear urged that these lands were pledged for the payment of the national debt, and have asked why this subject is pressed before that debt shall have been paid—whether gentlemen intend to prevent the payment of this debt? We are told, in reply, that they do not expect to make the distribution until that debt shall have been paid; but they desire to have an inquiry made by a committee. Sir, I think I understand gentlemen. I admire their skillful tactics: they desire to bring the subject before the public; to examine the direct interests of the people; to

JANUARY, 1890.]

*Distribution of Public Lands.*

[H. OF R.]

speak of grand plans of internal improvement and of education; to sound the tocsin that the new States are about to take all the public lands, when they were purchased by the "common blood and treasure of the country;" and in this way to excite a prejudice which will demand that the distribution shall be immediately made. The supporters of the resolution will then have accomplished the double object of preventing in part the payment of the public debt of fixing upon the new States a system of grinding oppression in relation to these lands, and that of preventing any liberal mode being adopted for disposing of these lands.

The people of the new States have a just ground of complaint, that this Government is more close and rigid, in regard to the disposition of these lands, than any other Government on earth. They justly contend that the Government had lost sight of the chief object, that of settling the country, and looks mainly to the money that is to be made from its own citizens. We ask you to give us relief from a system which annually drains the new States of their circulating medium—a system which will forever keep them poor. Although the graduation has been by the gentleman from Rhode Island (Mr. BURENS) anathematized in its very birth, we respectfully press the justice of that measure. We ask that the minimum price of the lands may be suited to their quality, or that a reduction may be made; but we pray you not to adopt the principle of this resolution. If this be done, it will be considered the interests of the people of the old States not only to relax their present system, but to adopt one more onerous. They will force their representatives here to act as a set of heartless speculators, wringing from the poor cultivator of the soil the last cent of his earnings. It is in vain that gentlemen say to us, adopt this our system of distribution, and we will give you a liberal system of disposing of these lands. We know that when their system shall have been fixed upon us, we cannot escape. According to the famous report of the committee at the last session, "a more rigid economy" will be then adopted in regard to these lands. Yes, sir, I am one of those that fear that the main objects of the prime movers and supporters of this resolution are to fix upon us this rigid economy, to prevent the growth and settlement of the new States, and to keep their population at home.

On the 6th September, 1780, a Committee of the Congress reported, and the report was adopted, "That it appears more advisable to press upon those States which can remove the embarrassments respecting the Western territory, a liberal surrender of a portion of their territorial claims, since they cannot be preserved entire without endangering the stability of the confederacy; to remind them how indispensably necessary it is to establish the Federal Union on a fixed and permanent basis, and on principles acceptable to all its respective mem-

bers; how essential to public credit and confidence, to the support of our army, to the vigor of our councils, and success of our measures; to our tranquillity at home, our reputation abroad; to our very existence as a free, sovereign, and independent people; that they are fully persuaded the wisdom of the respective legislatures will lead them to a full and impartial consideration of a subject so interesting to the United States, and necessary to a happy establishment of the Federal Union."

A resolution was then adopted, urging the States to make the cession. Now, sir, can any man read this report without the reflection arising, that if the holding of extensive territories by any of the States endangered the confederacy, and made it unacceptable to all its respective members, that the same inequality now existing among the States should strongly plead in favor of any measure which should give all the States the right of soil to the public lands within their respective limits. If the inequality then endangered our tranquillity, "our very existence as a free, sovereign, and independent people," will not a like inequality now be attended with the same imminent danger? And does not this report afford powerful arguments to show that the new States should, in fact, be placed upon an equal footing with the old States? But this is not all, sir.

On the 10th October, 1780, and before any State had made a cession of its territory, the Congress, with a view of offering inducements to the making of these cessions, adopted the following resolution:

*"Resolved,* That the unappropriated lands that may be ceded or relinquished to the United States by any particular State, pursuant to the recommendation of Congress of the 6th September last, shall be disposed of for the common benefit of the United States, and be settled and formed into distinct republican States, which shall become members of the Federal Union, and have the same rights of sovereignty, freedom, and independence, as the other States."

Here is a direct pledge that the lands shall be settled, and yet the main object of the Government seems to be to sell them for the highest price. Here is a solemn assurance that the territory shall be formed into distinct republican States, having the same rights of sovereignty, freedom, and independence, as the other States; and yet the other States have, and always have had, the right of soil in every foot of public land within their limits, and the new States are deprived of this right. Call you this equality in sovereignty, freedom, and independence? Is it admitted that the new States can extend their taxing power as far as the old States can extend their power of taxation? Is not the power of taxing all the property within the State, one of the essential rights of sovereignty in any State? The new States are deprived of this power; the old States possess it; and yet it is pretended that the new States have the same rights of sovereignty, freedom,

and independence, as the old States. Sir, the argument is preposterous; it strikes the mind of every man as fallacy, a mere delusion, to contend that, under circumstances like these, there is an equality of sovereignty.

I will refer to another act of the old Congress, to show their opinion upon a question like this. Yes, sir, I will refer to the principles of that Congress, although we seem to be much wiser than they. Would to God we were so, in truth and in fact; would to God we were half so disinterested, half so patriotic, half so pure. Sir, if some of us had caught the mantle of those departed worthies, we should seldom be found engaged in sectional conflicts. We should show ourselves worthy descendants of worthy ancestors. In 1778, the States of Rhode Island and of New Jersey objected to that article of the confederation, which provided "that no State shall be deprived of its territory for the benefit of the United States." These States offered amendments, going to vest in the United States the title to all the lands in every State which belonged to the crown at the commencement of the revolution. They urged then, as the supporters of this resolution urge now, that as these lands were acquired by the united efforts of all the States, they should belong equally to all the States. That as they were acquired by the "blood and treasure" of the whole country, they should be disposed of for the common benefit of the whole country. The Congress, however, negatived the proposition. Now what are we to suppose were the principles of the Congress? Are we not irresistibly led to the conclusion that Congress considered it would be improper, unwise, and unequal, that the Federal Government should hold the right of soil to the public lands within any State; that such a course would interfere with the sovereignty of the States. This idea is irresistible, when we take into consideration the fact, that the proposition from Rhode Island and New Jersey was so modified as not to interfere with the jurisdiction of the respective States over public lands within their limits. This, then, is a full answer to the arguments of those who insist that, as we have the jurisdiction over these lands, we have all the essential rights of sovereignty. The old Congress did not think so; and every man must at once see that there is a material difference.

North Carolina ceded a great extent of territory, making, however, many provisions in her own favor; and the territory so ceded has been chiefly appropriated to the citizens of that State who settled in Tennessee, and who had military land claims in the latter State. The General Government has received but little, if any, pecuniary interest from the cession. Will the people of North Carolina, under these circumstances, support this resolution? Can they support it without abandoning their constitutional principle, and without giving up their character for disinterestedness and liberality? I think not, sir. The State of Georgia ceded

her territory, it is true; but it was for a fair consideration paid. The lands recently acquired by the United States for the State of Georgia are about to be equally divided among her citizens without charge. Will she support this resolution? I know she cannot. The State of Virginia, if her good old principles permitted her, might, without reproach, insist on a share of the public lands. This State, as has been justly said, always foremost in acts of magnanimity, generosity, and patriotism, will not for any consideration, much less for the paltry one of a few thousand dollars, abandon her principles, and unite in a system which is to corrupt the best principles and sentiments of the people.

Sir, is it just or equitable that this division should be made according to representation in this House? Is it fair that we should look to the present generation alone, and not to posterity at all? The State of Missouri is nearly equal in territorial extent to the whole of New England. She is capable of sustaining a population equally great. You sell all the public lands in the new States in a few years; Missouri gets one-fortieth part as much as New England; education and internal improvements are well provided for in New England, but better aided in Missouri; and the fund is gone. How is Missouri in after times to be placed on an equal footing with the New England States? The inequality is much more glaring, when we again look to the State of New York. This State reserved all the crown lands within her limits; she retained that great, fertile, and extensive country towards her western frontier. She has sold it and settled it, and thereby gained an immense population. This population, having grown up on a part of the public domain, and which they used for their own benefit, now comes in for an equal share of the residue. Sir, this State should be amongst the last in this Union to press this measure. It is unjust, unequal, and inequitable. The same remarks will well apply to Connecticut, to Massachusetts, and to Maine.

But to return to the resolution. I have said that, if this plan be carried into effect, the people of the new States may bid adieu to the prospect of ever having the title of the United States extinguished. We shall then have the rigid system of public speculators fixed upon us; we shall then have sales of alternate sections made, so that the sale and improvement of one may enhance the value of the other. Sir, while gentlemen have been indulging in their fine feelings of philanthropy—while they are pressing this resolution forward, with a view of disseminating useful knowledge among the people, I am surprised that a little consideration should not have been bestowed on the thousands of poor non-freeholders in the several States, and in the old States, too. Would not they gladly settle and improve your wild lands? You cannot, forsooth, enable them to acquire a home by reducing the price of the

JANUARY, 1890.]

*The Judiciary.*

[H. OF R.]

public lands, and thus elevate them to the rank of the most useful and happy citizens; but you propose to educate them in poverty and starvation, and thus you sharpen their sensibilities, and make them less able to sustain themselves under their own insignificance and degradation. When we reflect on these things, sir, is it unreasonable to suspect that gentlemen are desirous of emptying the public Treasury, so that they may fill it in a way more to their liking? May we not well suppose, with the gentleman from Alabama, (Mr. LEWIS,) that the friends of this resolution know there is in this Union a tax-paying people, and then a tax-consuming people? May we not tremble for the principles of our Government when we see appeals to that description of population to support this measure, who will support it because one dollar is paid into one pocket without considering that two are taken out of the other? But the other day the proposition of the gentleman from Massachusetts, (Mr. RICHARDSON,) to undertake a system of education by this Government, was rejected upon the ground, as we all supposed, that the Government had no power over the subject. So soon, however, as a division of money among the States is proposed to effect the same object, gentlemen turn immediately round in its support. They are willing to do indirectly what they dare not do directly.

Sir, if there be gentlemen here who desire to ease the Treasury of its masses of wealth, I beg leave to recommend that they pay the just claims upon this Government. If they are at any loss to know what is to be done with their money, I point them to the war-worn soldier of the Revolution, and say, pay that debt of justice and of gratitude. Sir, when I see a poor old soldier of the Revolution penniless, homeless, comfortless; when I listen to his tales of heroic valor, and witness the ardor of his patriotism, and, at the same time, reflect on the wild, splendid, and expensive schemes of this Government, I have turned away with a bleeding heart, and blushed for the honor of my country.

Another reflection has occurred to me. I look upon the system proposed to be established by this resolution, as an anti-emigration system—a system which is intended to check the growth of the West. Has it come to this, sir? We have had American systems—anti-slavery systems—and systems the Lord knows what; and now we are to have an anti-emigration system to cripple the West, and to prevent the poor of the East from going to the West, and cultivating the fertile lands of the West. Money is to be divided among them at home—they are to be educated at home, and, I suppose, starve at home. Do you fear the increased and increasing power of the West? I hope not. That power is your power; it is the power of the whole country, and should not be feared by any part.

Sir, I have done. I have spoken what I believe.

Vol. X.—40

Heved to be the sentiments of the people whom I serve. I believe they cannot be bought up in the support of this resolution by any sum, much less the paltry and pitiful sum which would fall to their share under this distribution. I beg pardon of the committee for thus detaining them. But coming, as I do, from a new State—being the sole representative of a new State, whose interests I think are vitally interested, I felt myself constrained to enter into this discussion.

*The Judiciary.*

The bill establishing Circuit Courts and abridging the jurisdiction of the District Courts in the districts of Indiana, Illinois, Missouri, Mississippi, the eastern district of Louisiana, and the Southern district of Alabama, being under consideration,

Mr. BUCHANAN rose, and said:

Mr. Chairman: It becomes my duty to present to this committee the reasons which induced the Committee on the Judiciary to report the bill to the House which has just been read. In rising to discharge this duty, I feel conscious that the subject is in its nature dry and uninteresting; but its importance demands the attention of every member of this committee. In vain may we pass the most wise and salutary laws, unless we provide an efficient judiciary to carry their blessings and their benefits home to the people. Without such a judiciary, they remain a dead letter upon our statute book.

This bill proposes no new theory—no untried experiment. It pursues the course which has been sanctioned by long experience. The Committee on the Judiciary did not seek to be wiser than those who have gone before us. This bill, therefore, provides nothing new for the old States of the Union. It merely extends to the new Western States that judicial system which has been found to be fully adequate to administer justice to all the States east of the Alleghany.

Before I proceed to illustrate the necessity of this measure, it is perhaps proper that I should briefly present to the committee some of the prominent points of the judicial history of the United States. Our present system was called into existence by the judicial act of September, 1789; and it demonstrates the wisdom and sagacity of the Congress of that day, that they should, at the very first attempt, have adopted a system, which, with but few alterations, has stood the test of an experience of forty years. Under that act the United States was divided into thirteen districts, for each of which a district judge was appointed, who was required to reside therein, and to hold a court to be called a district court. These district courts were entirely independent of each other. Eleven of these thirteen districts, consisting of the eleven States which were then members of the Union, were divided into three circuits. These were called the eastern, the middle, and

the southern circuits. The eastern circuit was composed of the States of New Hampshire, Massachusetts, Connecticut, and New York; the middle, of the States of New Jersey, Pennsylvania, Delaware, Maryland, and Virginia; and the southern, of the States of South Carolina and Georgia. The remaining districts of Maine and Kentucky, not then members of the Union, were not embraced in any circuit; but their district courts were invested with the powers of a circuit court.

Under this act, the Supreme Court of the United States consisted of a chief justice and five associate justices.

In each district of these three circuits, a circuit court was directed to be held twice in each year, to be composed of any two justices of the Supreme Court, and the judge of the district.

In June, 1790, the States of Rhode Island and North Carolina, and in March, 1791, that of Vermont, came into the Union. The districts of Rhode Island and Vermont were attached to the eastern, and that of North Carolina to the southern circuit.

The committee will observe, that the act of 1789 did not assign the justices of the Supreme Court to particular circuits, but intended that they should alternate in holding their circuit courts. It was soon found to be impracticable for them to perform the circuit duties required by this act. Under its operation, the six justices of the Supreme Court, besides the performance of their duties in bank, were required, in pairs, to hold circuit courts twice in each year, throughout the three circuits which embraced all the States of the Union. In 1792, they addressed the President of the United States upon the subject, who laid their communication before Congress. This produced the act of March, 1798, which declared that any one of the justices of the Supreme Court, with the judge of the district, should compose the circuit court. This act, by dividing their duties, diminished their circuit labors one-half, and enabled them, without difficulty, to attend all the circuit courts.

Thus the Judiciary of the United States continued to be organized until the passage of the famous act of February, 1801. This act produced great excitement throughout the country at the time of its passage, and met with strong public disapprobation. It withdrew the justices of the Supreme Court from the performance of circuit duties, and made them exclusively an appellate tribunal. Under its provisions, the United States were divided into six circuits, and three judges were appointed for each of the first five of these circuits. For the sixth circuit, which consisted of the districts of East and West Tennessee, Kentucky, and Ohio, only one circuit judge was appointed; who, together with the district judges of Tennessee and Kentucky, composed the court for that circuit. The district courts throughout this circuit were abolished, and their duties were transferred to the circuit court. Such

was the provision which this act made for the performance of these circuit duties, which had been ably and satisfactorily discharged by the six justices of the Supreme Court previous to its passage.

The act of 1801 had but a brief existence. It was swept from the statute book in little more than one year after it became a law, by the repealing act of March, 1802. All the judges created under it were thus legislated out of office. This has been called a high-handed proceeding, and it is one which ought never to be resorted to except in extreme cases; but yet, in my opinion, experience has justified the measure, and has proved that such an extreme case then existed. But more of this hereafter.

In April, 1802, the judicial system was re-organized, and placed upon the foundation on which it now rests. The old thirteen States, together with Vermont, were divided into six circuits: the first composed of the States of New Hampshire, Massachusetts, and Rhode Island; the second, of the States of Connecticut, New York, and Vermont; the third, of New Jersey and Pennsylvania; the fourth, of Maryland and Delaware; the fifth, of Virginia and North Carolina; and the sixth, of South Carolina and Georgia. These circuits have ever since continued the same, except that Maine, since its admission into the Union, has been annexed to the first circuit. This act was the first which assigned to each justice of the Supreme Court a particular circuit. From the passage of the judicial act of 1789, until that of April, 1802, the justices of the Supreme Court alternated and travelled over all the circuits. Since that time, each one of them has been confined to a single circuit. The act of 1802 proceeded still further, and recognized the principle that the justices of the Supreme Court ought to reside within their respective circuits. At the date of its passage, four of the justices resided within the circuits to which it assigned them. Upon the resignation of Mr. Justice Moore, in 1804, whose residence was in the fifth, but who was assigned to the sixth circuit, the present Mr. Justice Johnston was appointed his successor. Ever since that time, all the justices of the Supreme Court have resided within their respective circuits, except the late Judge Washington. And of that lamented judge, permit me to say, that although he was the citizen of a State out of the limits of his circuit, yet his judicial character was held in as high estimation by the people of Pennsylvania, as will be that of any man who shall probably ever become his successor.

Kentucky, which became a State of the Union in 1792, and Tennessee in 1796, were not embraced within the circuits created by the act of 1802. Each of them continued to have a district court, which, in addition to the ordinary powers of such a court, was invested with the jurisdiction of a circuit court. Ohio became a member of the Union in 1803; and, in February, 1807, Congress established a ser-

JANUARY, 1830.]

*The Judiciary.*

[H. OF R.]

enth circuit, to consist of the States of Kentucky, Tennessee, and Ohio. Under this act, a sixth associate justice of the Supreme Court was appointed, to reside within the seventh circuit, and to hold the circuit courts. This circuit has always been too extensive, and the duties of the judge have ever been too laborious to be performed by any one man.

After the passage of the act of 1807, each of the eighteen States which then composed the Federal Union, was provided with a circuit court. That act, in this respect, placed them all upon an equal footing.

Since the year 1807, six new States have been added to the Union: Louisiana, in 1812; Indiana, in 1816; Mississippi, in 1817; Illinois, in 1818; Alabama, in 1819; and Missouri, in 1821.

The purpose of this bill is to extend the circuit court system to these new States; and, in doing so, to make such an arrangement of the two new circuits which it proposes to establish, as will enable the courts to transact the business of the States of Ohio, Kentucky, and Tennessee.

Before I proceed to discuss the merits of this bill, it is necessary, to a correct understanding of the subject, that I should present to the committee the great outlines of the jurisdiction of the circuit courts of the United States. I need scarcely repeat, that they are composed of one of the justices of the Supreme Court and the judge of the district in which they are held. They do not possess original jurisdiction in any case, unless the sum in controversy exceeds five hundred dollars. Above that amount they have unlimited original cognizance, concurrent with the courts of the several States, of all suits of a civil nature, at common law or in equity, in which the United States are plaintiffs, or in which an alien is one party, and the citizen of a State the other; or in which the controversy is between a citizen of the State where the suit is brought, and a citizen of another State. If an alien be sued in a State court, by any State or the citizen of a State, or if the citizen of another State be sued in a State court by a citizen of the State in which the suit is brought, the defendant in either case may remove the cause into the circuit court of the United States. The jurisdiction of the circuit court also extends to controversies between citizens of the same State, claiming lands under grants of different States; and causes of this nature may be removed by either party from the courts of the States into the circuit court. Besides this extended original jurisdiction, the circuit courts are courts of appeal, in which the judgments and decrees of the district courts may be reviewed, in all civil cases in which the sum in controversy exceeds fifty dollars. When we consider that the district courts "have exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction," this single branch of their power must be the fruitful source of many appeals to the circuit courts.

The judgments or decrees of the circuit courts are final and conclusive in all cases in which the amount in controversy does not exceed two thousand dollars, unless when the two judges who compose them are divided in opinion upon some point which may have arisen during the trial.

The circuit courts also possess exclusive original jurisdiction of all crimes of an aggravated nature committed against the United States; and they have concurrent jurisdiction with the district courts of all other offences. Their judgments in all criminal cases are conclusive, unless the judges are divided in opinion. If there has been such a division between them, either in a civil or criminal case, the point of disagreement may be certified to the next Supreme Court for a final decision.

Having thus given a hasty sketch of the history of the Judiciary of the United States, and of the jurisdiction of the circuit courts which this bill proposes to extend to the six new States of the Union, I shall now proceed to present the views of the Committee on the Judiciary in relation to this important subject. In doing this, I feel that, before I can expect the passage of the bill, I must satisfy the committee, first, that such a change or modification of the present judiciary system ought to be adopted, as will place the Western States on an equal footing with the other States of the Union; and, second, that the present bill contains the best provisions which, under all the circumstances, can be devised for accomplishing this purpose.

And first, in regard to the States of Ohio, Kentucky, and Tennessee. It may be said that the existing law has already established circuit courts in these three States, and why then should they complain? In answer to this question, I ask gentlemen to look at a map of the United States, and examine the extent of this circuit. The distance which the judge is compelled to travel, by land, for the purpose of attending the different circuit courts, is of itself almost sufficient, in a few years, to destroy any common constitution. From Columbus, in Ohio, he proceeds to Frankfort, in Kentucky; from Frankfort to Nashville; and from Nashville, across the Cumberland mountain, to Knoxville. When we reflect that, in addition to his attendance of the courts in each of these States, twice in the year, he is obliged annually to attend the Supreme Court in Washington, we must all admit that his labors are very severe.

This circuit is not only too extensive, but there is a great press of judicial business in each of the States of which it is composed. In addition to the ordinary sources of litigation for the circuit courts throughout the Union, particular causes have existed for its extraordinary accumulation in each of these States. It will be recollected that, under the constitution and laws of the United States, the circuit courts may try land causes between citizens of the same State, provided they claim under grants



from different States. In Tennessee, grants under that State and the State of North Carolina, for the same land, often come into conflict in the circuit court. The interfering grants of Virginia and Kentucky are a fruitful source of business for the circuit court of Kentucky. These causes, from their very nature, are difficult, and important, and must occupy much time and attention. Within the Virginia military district of Ohio, there are also many disputed land titles.

Another cause has contributed much to swell the business of the circuit court of Kentucky. The want of confidence of the citizens of other States in the judicial tribunals of that State, has greatly added to the number of suits in the circuit court. Many plaintiffs, who could, with greater expedition, have recovered their demands in the courts of the State, were compelled, by the impolitic acts of the State Legislature, to resort to the court of the United States. Whilst these laws were enforced by the State court, they were disregarded by those of the Union. In making these remarks, I am confident no representative from that patriotic State will mistake my meaning. I rejoice that the difficulties are now at an end, and that the people of Kentucky have discovered the ruinous policy of interposing the arm of the law to shield a debtor from the just demands of his creditor. That gallant and chivalrous people, who possess a finer soil and a finer climate than any other State of the Union, will now, I trust, improve and enjoy the bounties which nature has bestowed upon them with a lavish hand. As their experience has been severe, I trust their reformation will be complete. Still, however, many of the causes which originated in past years, are yet depending in the circuit court of that State.

In 1826, when a similar bill was before this House, we had the most authentic information that there were nine hundred and fifty causes then pending in the circuit court of Kentucky, one hundred and sixty in the circuit court for the western district, and about the same number in that for the eastern district of Tennessee, and upwards of two hundred in Ohio. Upon that occasion a memorial was presented from the bar of Nashville, signed by G. W. Campbell as Chairman, and Felix Grundy, at present a Senator of the United States, as secretary. These gentlemen are both well known to this House, and to the country. That memorial declares that "the seventh circuit, consisting of Kentucky, Ohio, and Tennessee, is too large for the duties of it to be devolved on one man; and it was absolutely impossible for the judge assigned to this circuit to fulfil the letter of the law designating his duties." Such has been the delay of justice, in the State of Tennessee, "that some of the important causes now pending in their circuit courts are older than the professional career of almost every man at the bar."

The number of causes depending in the sev-

enth circuit, I am informed, has been somewhat reduced since 1826; but still the evil is great, and demands a remedy. If it were possible for one man to transact the judicial business of that circuit, I should have as much confidence that it would be accomplished by the justice of the Supreme Court to which it is assigned, as by any other judge in the Union. His ability and his perseverance are well known to the nation. The labor, however, both of body and mind, is too great for any individual.

Has not the delay of justice in this circuit almost amounted to its denial? Are the States which compose it placed upon the same footing in this respect, with other States of the Union? Have they not a right to complain? Many evils follow in the train of tardy justice. It deranges the whole business of society. It tempts the dishonest and the needy to set up unjust and fraudulent defences against the payment of just debts, knowing that the day of trial is far distant. It thus ruins the honest creditor, by depriving him of the funds which he had a right to expect at or near the appointed time of payment; and it ultimately tends to destroy all confidence between man and man.

A greater curse can scarcely be inflicted upon the people of any State, than to have their land titles unsettled. What, then, must be the condition of Tennessee, where there are many disputed land titles, when we are informed, by undoubted authority, "that some of the important causes now pending in their circuit courts are older than the professional career of almost every man at the bar." Instead of being astonished at the complaints of the people of this circuit, I am astonished at their forbearance. A judiciary, able and willing to compel men to perform their contracts, and to decide their controversies, is one of the greatest political blessings which any people can enjoy; and it is one which the people of this country have a right to expect from their Government. The present bill proposes to accomplish this object, by creating a new circuit out of the States of Kentucky and Tennessee. This circuit will afford sufficient employment for one justice of the Supreme Court.

Without insisting further upon the propriety, nay, the necessity, of organizing the circuit courts of Ohio, Kentucky, and Tennessee, in such a manner as to enable them to transact the business of the people, I shall now proceed to consider the situation of the six new States, Louisiana, Indiana, Mississippi, Illinois, Alabama, and Missouri. Their grievances are of a different character. They do not so much complain of the delay of justice, as that Congress have so long refused to extend to them the circuit court system, as it exists in all the other States. As they successively came into the Union, they were each provided with a district court and a district judge, possessing circuit court powers. The acts which introduced them into our political family declare that they shall "be admitted into the Union on an equal foot-

JANUARY, 1890.]

*The Judiciary.*

[H. OF R.]

ing with the original States, in all respects whatever." I do not mean to contend that by virtue of these acts we were bound immediately to extend to them the circuit court system. Such has not been the practice of Congress, in regard to other States in a similar situation. I contend, however, that these acts do impose an obligation upon us to place them "on an equal footing with the original States," in regard to the Judiciary, as soon as their wants require it, and the circumstances of the country permit it to be done. That time has, in my opinion, arrived. Louisiana has now been nearly eighteen years a member of the Union, and is now one of our most commercial States; and yet, until this day, she has been without a circuit court. It is more than thirteen years since Indiana was admitted; and even our youngest sister, Missouri, will soon have been nine years in the family. Why should not these six States be admitted to the same judicial privileges which all the others now enjoy? Even if there were no better reason, they have a right to demand it for the mere sake of uniformity. I admit this is an argument dictated by State pride; but is not that a noble feeling? Is it not a feeling which will ever characterize freemen? Have they not a right to say to us, if the circuit court system be good for you, it will be good for us? You have no right to exclusive privileges. If you are sovereign States, so are we. By the terms of our admission, we are perfectly your equals. We have long submitted to the want of this system, from deference to your judgment; but the day has now arrived when we demand it from you as our right. But there are several other good reasons why the system ought to be extended to these States. And, in the first place, the justices of the Supreme Court are selected from the very highest order of the profession. There is scarcely a lawyer in the United States who would not be proud of an elevation to that bench. A man ambitious of honest fame ought not to desire a more exalted theatre for the display of ability and usefulness. Besides, the salary annexed to this office is sufficient to command the best talents of the country. I ask you, sir, is it not a serious grievance for those States to be deprived of the services of such a man in their courts? I ask you whether it is equal justice, that whilst, in eighteen States of this Union, no man can be deprived of his life, his liberty, or his property, by the judgment of a circuit court, without the concurrence of two judges, and one of them a justice of the Supreme Court, in the remaining six the fate of the citizen is determined by the decision of a single district judge? Who are, generally speaking, these district judges? In asking this question, I mean to treat them with no disrespect. They receive but small salaries, and their sphere of action is confined to their own particular districts. There is nothing either in the salary or in the station which would induce a distinguished lawyer, unless under peculiar circum-

stances, to accept the appointment. And yet the judgment of this individual, in six States of the Union, is final and conclusive, in all cases of law, of equity, and of admiralty and maritime jurisdiction, wherein the amount of the controversy does not exceed two thousand dollars. Nay, the grievance is incomparably greater. His opinion in all criminal cases, no matter how aggravated may be their nature, is final and conclusive. A citizen of these States may be deprived of his life, or of his character, which ought to be dearer than life, by the sentence of a district judge; against which there is no redress, and from which there can be no appeal.

There is another point of view in which the inequality and injustice of the present system, in the new States, is very striking. In order to produce a final decision, both the judges of a circuit court must concur. If they be divided in opinion, the point of difference is certified to the Supreme Court, for their decision; and this, whether the amount in controversy be great or small. The same rule applies to criminal case. In such a court, no man can be deprived of life, of liberty, or of property, by a criminal prosecution, without the clear opinion of the two judges that his conviction is sanctioned by the laws of the land. If the question be doubtful and important, or if it be one of the first impression, the judges, even when they do not really differ, often agree to divide, *pro forma*; so that the point may be solemnly argued and decided in the Supreme Court. Thus, the citizen of every State in which a circuit court exists, has a shield of protection cast over him, of which he cannot be deprived, without the deliberate opinion of two judges; whilst the district judge of the six new Western States must alone finally decide every criminal question, and every civil controversy in which the amount in dispute does not exceed two thousand dollars.

In the eastern district of Louisiana, the causes of admiralty and maritime jurisdiction decided by the district court must be numerous and important. If a circuit court were established for that State, a party who considered himself aggrieved might appeal to it from the district court in every case in which the amount in controversy exceeded fifty dollars. At present there is no appeal, unless the value of the controversy exceeds two thousand dollars; and then it must be made directly to the Supreme Court, a tribunal so far remote from the city of New Orleans, as to deter suitors from availing themselves of this privilege.

I shall not further exhaust the patience of the committee on this branch of the subject. I flatter myself that I have demonstrated the necessity for such an alteration of the existing laws, as will confer upon the people of Ohio, Kentucky, and Tennessee, and of the six new Western States, the same benefits from the judiciary, as those which the people of the other States now enjoy.

The great question, then, which remains for discussion is, does the present bill present the best plan for accomplishing this purpose, which, under all circumstances, can be devised? It is incumbent upon me to sustain the affirmative of this proposition. There have been but two plans proposed to the Committee on the Judiciary, and but two can be proposed, with the least hope of success. The one an extension of the present system, which the bill now before the committee contemplates, and the other a resort to the system which was adopted in the days of the elder Adams, of detaching the justices of the Supreme Court from the performance of circuit duties, and appointing circuit judges to take their places. After much reflection upon this subject, I do not think that the two systems can be compared, without producing a conviction in favor of that which has long been established. The system of detaching the judges of the Supreme Court from the circuits has been already tried, and it has already met the decided hostility of the people of this country. No act passed during the stormy and turbulent administration of the elder Adams, which excited more general indignation among the people. The courts which it established were then, and have been ever since, branded with the name of the "midnight judiciary." I am far from being one of those who believe the people to be infallible. They are often deceived by the arts of demagogues: but this deception endures only for a season. They are always honest, and possess much sagacity. If, therefore, they get wrong, it is almost certain they will speedily return to correct opinions. They have long since done justice to other acts of that administration, which at the time they condemned; but the feeling against the judiciary established under it remains the same. Indeed, many now condemn that system, who were formerly its advocates. In 1826, when a bill, similar in its provisions to the bill now before the committee, was under discussion in this House, a motion was made by a gentleman from Virginia, (Mr. MERROB,) to recommit it to the Committee on the Judiciary, with an instruction so to amend it, as to discharge the judges of the Supreme Court from attendance on the circuit courts, and to provide a uniform system for the administration of justice in the inferior courts of the United States. Although this motion was sustained with zeal and eloquence and ability by the mover, and by several other gentlemen, yet, when it came to the vote, it was placed in a lean minority, and, I believe, was negatived without a division. It is morally certain that such a bill could not now be carried. It would therefore have been vain and idle in the Committee on the Judiciary to have reported such a bill. If the Western States should be doomed to wait for a redress of their grievances, until public opinion shall change upon this subject, it will, probably, be a long time before they will obtain relief.

But, sir, there are most powerful reasons for

believing that public opinion upon this subject is correct. What would be the natural consequences of detaching the judges of the Supreme Court from circuit duties? It would bring them and their families from the circuits in which they now reside; and this city would become their permanent residence. They would naturally come here; because here, and nowhere else, would they then have official business to transact. What would be the probable effect of such a change of residence? The tendency of every thing within the ten miles square is towards the Executive of the Union. He is here the centre of attraction. No matter what political revolutions may take place, no matter who may be up, or who may be down, the proposition is equally true. Human nature is not changed under a republican Government. We find that citizens of a republic are worshippers of power, as well as the subjects of a monarchy. Would you think it wise to bring the justices of the Supreme Court from their residence in the States, where they breathe the pure air of the country, and assemble them here within the very vortex of Executive influence? Instead of being independent judges, scattered over the surface of the Union, their feelings identified with the States of which they are citizens, is there no danger, that, in the lapse of time, you would convert them into minions of the Executive? I am far, very far, from supposing that any man, who either is or who will be a justice of the Supreme Court, could be actually corrupted; but if you place them in a situation where they or their relatives would naturally become candidates for Executive patronage, you place them, in some degree, under the control of Executive influence. If there should now exist any just cause for the complaints against the Supreme Court, that in their decisions they are partial to federal rather than to State authority, (and I do not say that there is,) that which at present may be but an imaginary fear might soon become a substantial reality. I would place them beyond the reach of temptation. I would suffer them to remain, as they are at present, citizens of their respective States, visiting this city annually to discharge their high duties, as members of the Supreme Court. This single view of the subject, if there were no other, ought in my judgment to be conclusive.

Let us now suppose, for the sake of the argument, that the withdrawal of the justices of the Supreme Court from their circuit duties, and their residence in this city, would produce no such effects, as I apprehend, upon the judges themselves; what would be the probable effect upon public opinion? It has been said, and wisely said, that the first object of every judicial tribunal ought to be to do justice; the second, to satisfy the people that justice has been done. It is of the utmost importance in this country that the judges of the Supreme Court should possess the confidence of the public. This they now do in an eminent degree. How have they

JANUARY, 1880.]

*The Judiciary.*

[H. OF R.]

acquired it? By travelling over their circuits, and personally showing themselves to the people of the country, in the able and honest discharge of their high duties, and by their extensive intercourse with the members of the profession on the circuits in each State, who after all are the best judges of judicial merit, and whose opinions upon this subject have a powerful influence upon the community. Elevated above the storms of faction and of party which have sometimes lowered over us, like the sun, they have pursued their steady course, unawed by threats, unseduced by flattery. They have thus acquired that public confidence, which never fails to follow the performance of great and good actions, when brought home to the personal observation of the people.

Would they continue to enjoy this extensive public confidence, should they no longer be seen by the people of the States, in the discharge of their high and important duties, but be confined, in the exercise of them, to the gloomy and vaulted apartment which they now occupy in this capitol? Would they not be considered as a distant and dangerous tribunal? Would the people, when excited by strong feeling, patiently submit to have the most solemn acts of their State Legislatures swept from the statute book, by the decision of judges whom they never saw, and whom they had been taught to consider with jealousy and suspicion? At present, even in those States where their decisions have been most violently opposed, the highest respect has been felt for the judges by whom they were pronounced; because the people have had an opportunity of personally knowing that they were both great and good men. Look at the illustrious individual who is now the Chief Justice of the United States. His decisions upon constitutional questions have ever been hostile to the opinions of a vast majority of the people of his own State; and yet with what respect and veneration has he been viewed by Virginia? Is there a Virginian, whose heart does not beat with honest pride when the just fame of the Chief Justice is the subject of conversation? They consider him, as he truly is, one of the greatest and best men which this country has ever produced. Think ye that such would have been the case, had he been confined to the city of Washington, and never known to the people, except in pronouncing judgments in this capitol, annulling their State laws, and calculated to humble their State pride? Whilst I continue to be a member of this House, I shall never incur the odium of giving a vote for any change in the judiciary system, the effect of which would, in my opinion, diminish the respect in which the Supreme Court is now held by the people of this country.

The judges whom you would appoint to perform the circuit duties, if able and honest men, would soon take the place which the judges of the Supreme Court now occupy in the affections of the people; and the reversal of their

judgments, when they happened to be in accordance with strong public feeling, would naturally increase the mass of discontent against the Supreme Court.

There are other reasons, equally powerful, against the withdrawal of the judges from the circuits. What effect would such a measure probably produce upon the ability of the judges themselves to perform their duties? Would it not be very unfortunate?

No judges upon earth ever had such various and important duties to perform, as the justices of the Supreme Court. In England, whence we have derived our laws, they have distinct courts of equity, courts of common law, courts of admiralty, and courts in which the civil law is administered. In each of these courts, they have distinct judges; and perfection in any of these branches is certain to be rewarded by the honors of that country. The judges of our Supreme Court, both on their circuits and in bank, are called upon to adjudicate on all these codes. But this is not all. Our Union consists of twenty-four sovereign States, in all of which there are different laws and peculiar customs. The common and equity law have thus been changed and inflected into a hundred different shapes, and adapted to the various wants and opinions of the different members of our confederacy. The judicial act of 1789 declares "that the laws of the several States, except where the constitution, treaties, or statutes of the United States shall otherwise require or provide," shall be regarded as rules of decision in the courts of the United States. The justices of the Supreme Court ought, therefore, to be acquainted with the ever-varying codes of the different States.

There is still another branch of their jurisdiction, of a grand and imposing character, which places them far above the celebrated Amphictyonic council. The Constitution of the United States has made them the arbiters between conflicting sovereigns. They decide whether the sovereign power of the States has been exercised in conformity with the Constitution and laws of the United States; and, if this has not been done, they declare the laws of the State Legislatures to be void. Their decisions thus control the exercise of sovereign power. No tribunal ever existed, possessing the same, or even similar authority. Now, sir, suppose you bring these judges to Washington, and employ them in bank but six weeks or two months in the year, is it not certain that they will gradually become less and less fit to decide upon these different codes, and that they will at length nearly lose all recollection of the peculiar local laws of the different States? Every judicial duty which each of them would then be required to perform, would be to prepare and deliver a few opinions annually in bank.

The judgment, like every other faculty of the mind, requires exercise to preserve its vigor. That judge who decides the most causes, is like-

ly to decide them the best. He who is in the daily habit of applying general principles to the decision of cases, as they arise upon the circuits, is at the same time qualifying himself in the best manner for the duties of his station on the bench of the Supreme Court.

Is it probable that the long literary leisure of the judges in this city, during ten months of the year, would be devoted to searching the two hundred volumes of jarring decisions of State courts, or in studying the acts of twenty-four State Legislatures? The man must have a singular taste and a firm resolution, who, in his closet, could travel over this barren waste. And even if he should, what would be the consequence? The truth is, such knowledge cannot be obtained; and after it has been acquired, it cannot be preserved, except by constant practice. There are subjects which, when the memory has once grasped, it retains forever. It has no such attachment for acts of Assembly, acts of Congress, and reports of adjudged cases, fixing their construction. This species of knowledge, under the present system, will always be possessed by the judges of the Supreme Court; because, in the performance of their circuit duties, they are placed in a situation in which it is daily expounded to them, and in which they are daily compelled to decide questions arising upon it. Change this system, make them exclusively judges of an appellate court, and you render it highly probable that their knowledge of the general principles of the laws of their country will become more and more faint, and that they will finally almost lose the recollection of the peculiar local systems of the different States. "Practice makes perfect," is a maxim applicable to every pursuit in life. It applies with peculiar force to that of a judge. I think I might appeal for the truth of this position to the long experience of the distinguished gentleman from New York, now by my side, (Mr. SPENCER.) A man, by study, may become a profound lawyer in theory, but nothing except practice can make him an able judge. I call upon every member of the profession in this House to say whether he does not feel himself to be a better lawyer at the end of a long term, than at the beginning. It is the circuit employment, imposed upon the judges of England and the United States, which has rendered them what they are. In my opinion, both the usefulness and the character of the Supreme Court depend much upon its continuance.

I now approach what I know will be urged as the greatest objection to the passage of this bill—that it will extend the number of the judges of the Supreme Court to nine. If the necessities of the country required that their number should be increased to ten, I would feel no objection to such a measure. The time has not yet arrived, however, when, in my opinion, such a necessity exists. Gentlemen, in considering this subject, ought to take those extended views which belong to statesmen. When we

reflect upon the vast extent of our country, and the various systems of law under which the people of the different States are governed, I cannot conceive that nine or even ten judges are too great a number to compose our appellate tribunal. That number would afford a judicial representation upon the bench of each large portion of the Union. Not, sir, a representation of sectional feelings or of the party excitements of the day, but of that peculiar species of legal knowledge necessary to adjudicate wisely upon the laws of the different States. For example, I ask what judge now upon the bench possesses, or can possess, a practical knowledge of the laws of Louisiana? Their system is so peculiar, that it is almost impossible for a man to decide correctly upon all cases arising under it, who has never been practically acquainted with the practice of their courts. Increase the number of judges to nine, and you will then have them scattered throughout all the various portions of the Union. The streams of legal knowledge peculiar to the different States will then flow to the bench of the Supreme Court as to a great reservoir, from whence they will be distributed throughout the Union. There will then always be sufficient local information upon the bench, if I may use the expression, to detect all the ingenious fallacies of the bar, and to enable them to decide correctly upon local questions. I admit, if the judges were confined to appellate duties alone, nine or ten would probably be too great a number. Then there might be danger that some of them would become mere non-entities, contenting themselves simply with voting aye or no in the majority or minority. There would then also be danger that the Executive might select inefficient men for this high station, who were his personal favorites, expecting their incapacity to be shielded from public observation by the splendid talents of some of the other judges upon the bench. Under the present system we have no such danger to apprehend. Each judge must now feel his own personal responsibility. He is obliged to preside in the courts throughout his circuit, and to bring home the law and the justice of his country to his fellow-citizens in each of the districts of which it is composed. Much is expected from a judge placed in his exalted station; and he must attain to the high standard of public opinion by which he is judged, or incur the reproach of holding an office to which he is not entitled. No man in any station in this country can place himself above public opinion.

Upon the subject of judicial appointments, public opinion has always been correct. No factious demagogue, no man, merely because he has sung hosannas to the powers that be, can arrive at the bench of the Supreme Court. The Executive himself will always be constrained by the force of public sentiment, whilst the present system continues, to select judges for that court from the ablest and best men of the

JANUARY, 1830.]

*The Judiciary.*

[H. OF R.]

circuit; and such has been the course which he has hitherto almost invariably pursued. Were he to pursue any other, he would inevitably incur popular odium. Under the existing system, there can be no danger in increasing the number of the judges to nine. But take them from their circuits, destroy their feeling of personal responsibility by removing them from the independent courts over which they now preside, and make them merely an appellate tribunal, and I admit there would be danger, not only of improper appointments, but that a portion of them, in the lapse of time, might become incompetent to discharge the duties of their station.

But, sir, have we no examples of appellate courts consisting of a greater number than either nine or ten judges, which have been approved by experience? The Senate of the State of New York has always been their court of appeals; and, notwithstanding they changed their constitution a few years ago, so much were the people attached to this court, that it remains unchanged. In England, the twelve judges, in fact, compose the court of appeals. Whenever the House of Lords sits in a judicial character, they are summoned to attend, and their opinions are decisive of almost every question. I do not pretend to speak accurately, but I doubt whether the House of Lords have decided two cases, in opposition to the opinion of the judges, for the last fifty years. In England, there is also the court of exchequer chamber, consisting of the twelve judges, and sometimes of the lord chancellor also, into which such causes may be adjourned from the three superior courts, as the judges find to be difficult of decision, before any judgment is given upon them in the court in which they originated. The court of exchequer chamber is also a court of appeals, in the strictest sense of the word, in many cases which I shall not take time to enumerate.

I cannot avoid believing that the prejudice which exists in the minds of some gentlemen, against increasing the number of the judges of the Supreme Court to nine, arises from the circumstance that the appellate courts of the different States generally consist of a fewer number. But is there not a striking difference between the cases? It does not follow that because four or five may be a sufficient number in a single State where one uniform system of laws prevails, nine or ten would be too many on the bench of the Supreme Court, which administers the laws of twenty-four States, and decides questions arising under all the codes in use in the civilized world. Indeed, if four or five judges be not too many for the court of appeals in a State, it is a strong argument that nine or ten are not too great a number for the court of appeals of the Union. Upon the whole, I ask, would it be wise in this committee, disregarding the voice of experience, to destroy a system which has worked well in practice for forty years, and resort to a dangerous

and untried experiment, merely from a vague apprehension that nine judges will destroy the usefulness and character of that court, which has been raised by seven to its present exalted elevation?

It will, no doubt, be objected to this bill, as it has been upon a former occasion, that the present system cannot be permanent, and that, ere long, the judges of the Supreme Court, must, from necessity, be withdrawn from their circuits. To this objection there is a conclusive answer. We know that the system is now sufficient for the wants of the country, and let posterity provide for themselves. Let us not establish courts which are unnecessary in the present day, because we believe that hereafter they may be required to do the business of the country.

But, if it were necessary, I believe it might be demonstrated, that ten justices of the Supreme Court will be sufficient to do all the judicial business of the country which is required of them under the present system, until the youngest member of this House shall be sleeping with his fathers. Six judges have done all the business of the States east of the Alleghany Mountains, from the adoption of the federal constitution up till this day; and still their duties are not laborious. If it should be deemed proper by Congress, these fifteen Eastern States might be arranged into five circuits instead of six, upon the occurrence of the next vacancy in any of them, without the least inconvenience either to the judges or to the people; and thus it would be rendered unnecessary to increase the bench of the Supreme Court beyond nine, even after the admission of Michigan and Arkansas into the Union. The business of the federal courts, except in a few States, will probably increase but little for a long time to come. One branch of it must, before many years, be entirely lopped away. I allude to the controversies between citizens of the same State claiming lands under grants from different States. This will greatly diminish their business both in Tennessee and Kentucky. Besides, the State tribunals will generally be preferred by aliens and by citizens of other States for the mere recovery of debts, on account of their superior expedition.

I should here close my remarks, if it were not necessary to direct the attention of the committee for a few minutes to the details of the bill. And here permit me to express my regret that my friend from Kentucky (Mr. WICKLIFFE) has thought proper to propose an amendment to add three, instead of two, judges to the Supreme Court. Had a majority of the Committee on the Judiciary believed ten judges, instead of nine, to be necessary, I should have yielded my opinion, as I did upon a former occasion, and given the bill my support in the House. This I should have done, to prevent division among its friends, believing it to be a mere question of time: for ten will become necessary in a few years, unless the num-

ber of the Eastern circuits should be reduced to five.

[Here Mr. WICKLIFFE asked if it were in order to refer to his amendment, as it was not yet before the committee.]

Mr. BUCHANAN said he would not further refer to it at present. The bill proposes to create one new circuit out of Mississippi, the eastern district of Louisiana, and the southern district of Alabama. Nature has united these three districts. They cannot be separated without violence. There is a communication by water, between Natchez, New Orleans, and Mobile, the places at which the circuit courts will be held for the whole distance, which is always safe and expeditious. No other arrangement could have been made, unless Alabama had been connected with Tennessee; and that would have been extremely inconvenient. I have a certificate from the Post Office Department in my possession, stating the distance from Nashville to Mobile, to be four hundred and thirty-nine miles. The road is not good, the streams are not bridged, and it passes through a new country, and part of the way through an Indian nation. In order to attend the circuit court at Mobile, the judge would be compelled to travel over this road, from a healthy into a sickly climate, twice in each year, a total distance of one thousand seven hundred and fifty-six miles; and this, when he could reach Mobile, either from Natchez or New Orleans, by water, in two or three days.

The circuit court cannot be removed from Mobile, and placed nearer to Nashville. It is there that admiralty and maritime causes arise, and must be decided in the district court, from which an appeal is allowed to the circuit court. It is at that commercial point the citizens of Alabama chiefly come into contact in their commercial transactions with the citizens of other States, and with foreigners; and there the chief civil business of the circuit court must arise. But, above all, it is there, near the verge of the Gulf of Mexico, where offences against the United States committed upon the high seas must be tried and punished.

Kentucky and Tennessee, under this bill, compose the other new circuit; and however reluctant these States may be to go together, I do not perceive how they can be separated, without imposing more labor upon some one of the Western judges than he ought to be called upon to perform.

In regard to the other Western circuit, consisting of Ohio, Indiana, Illinois, and Missouri, I admit that it will embrace a large extent of territory. I am sorry for it, but it cannot be avoided. We ought, however, to consider that, if the judge shall be compelled to travel much, a great part of it will be by water. He will have but little business to transact in any of the States of which it is composed, except Ohio. It is probable, too, that ere long public convenience will suggest the removal of the circuit courts of Ohio, Indiana, and Illinois from

the seats of Government of those States to the Ohio River; and I am at a loss to conceive any good reason why the circuit court of Missouri should not be held at St. Louis.

After all, I regret that necessity has compelled the Committee on the Judiciary to report a bill, which, if it should pass, will impose so much travel on the judge of the seventh circuit. No man would be more disposed to relieve that distinguished individual from unnecessary labor than myself. I feel confident he will never complain. The man who, by the exertion of great ability, incessant labor, and untiring perseverance, brought the Post Office Department from chaos into order, will never shrink from the performance of any duty required of him by his country.

Another remark, and I have done. This bill does not provide a circuit court for the western district of Louisiana, and the northern district of Alabama. In this respect, these districts are placed upon the same footing with the northern district of New York, the western district of Pennsylvania, and the western district of Virginia. I possess no actual information concerning the amount of business in the northern district of Alabama; but from its position it cannot be great. I have the best information that there is but little business in the western district of Louisiana. At all events, neither Louisiana nor Alabama will complain, when they are placed upon the same footing with New York, Pennsylvania, and Virginia.

TUESDAY, January 19.

*Distribution of Public Lands.*

The House resumed the consideration of the resolution moved by Mr. HUNT on the 17th December ultimo.

The question recurred on agreeing to that member or portion thereof, which is contained in the following words: "for the purposes of education;" and decided as follows: yeas 98—nays 84.

So this part of the resolution was agreed to.

The question was then put, will the House agree to that member or portion of the said resolution which is contained in the following words: "and internal improvement?" and decided as follows: yeas 92—nays 94.

The question was then put, Will the House agree to that member or portion of said resolution which is contained in the following words: "in proportion to the representation of each in the House of Representatives, with leave to report by bill or otherwise?" and decided as follows: yeas 117—nays 75.

So the first, second, and fourth members of the said resolution were agreed to by the House, and the third member thereof was rejected.

The resolution agreed to by the House is as follows:

JANUARY, 1880.]

*The Judiciary.*

[H. OF R.]

"Resolved, That a Select Committee be appointed to inquire into the expediency of appropriating the net proceeds of the sales of the public lands among the several States and Territories for the purpose of education, in proportion to the representation of each in the House of Representatives; with leave to report by bill or otherwise."

WEDNESDAY, JANUARY 20.

*The Judiciary.*

The House then again went into Committee of the Whole on the state of the Union, Mr. CAMBRELENG in the chair, and took up the bill to alter and extend the Judiciary system.

Mr. STRONG rose, and concluded his argument in support of his amendment.

[The remarks of Mr. STRONG were to the following effect:]

Mr. STRONG said, that, on most occasions, he was content to give a silent vote: but, on the present subject, so important in its character and consequences, and holding the opinions he did in regard to it, he hoped a departure from his accustomed rule would not be deemed improper.

The amendment which I have submitted, (said Mr. S.,) the committee will recollect, proposes to transfer all the powers and duties of the circuit courts to the several district courts of the United States, and to require the justices of the Supreme Court, being thus relieved from their circuit duties, to hold annually two or more terms of that court. To avoid embarrassment in discussing the principle upon which the plan depends, I have purposely omitted some necessary provisions. These, however, should the plan be adopted, may be readily supplied, either here, or by sending the subject back to the Committee on the Judiciary. This amendment opens the whole field of debate. It does more. Contrasted with the bill, it presents plainly the two great alternatives, either to go on increasing the number of the justices of the Supreme Court, for the performance solely of mere incidental and subordinate duties, or to require, in another form, and of others, the performance of those duties. It seems clear to me that the federal judiciary must be organized upon the one or the other of these cardinal principles.

The honorable chairman, (Mr. BUCHANAN,) after having described, in fresh colors, the deprivations and wants of Indiana, Illinois, Missouri, Alabama, Mississippi, and Louisiana, contended that the circuit court system ought to be extended to those new States, in order that they might be put upon an equal footing with the older States of the Union. I have admitted that the benefits of the judiciary ought to be distributed equally among the twenty-four States. But, sir, does the bill do this? It clearly does not. It makes no provision for having one of the justices of the Supreme Court hold a circuit court in the northern districts of

New York and of Alabama, or in the western districts of Pennsylvania, Virginia, and Louisiana. These are left with district courts only; and this is certainly the more remarkable, as two of these districts are in the States for whose benefit and relief we are urged to pass the present bill. Without stopping, therefore, to inquire into the practical operation of the plan which the honorable gentleman proposes, it is apparent, on the face of it, that it does not do equal justice.

But we are again earnestly entreated by the honorable gentleman (Mr. B.) to pass this bill, because the decisions of the district court in the districts to which the circuit court system has not been extended, are, in certain cases, final and conclusive upon the property and life of the citizen. If there be any thing hard or unmerciful in this, the remedy is easy, and should be applied without delay. We should at once give an appeal in those cases, directly to the Supreme Court of the United States. This would obviate the evil, and is one answer to the argument. The bill, however, is exceedingly objectionable for another reason; it is partial and unequal. It withholds the circuit court system from five large districts, and thus leaves the property and lives of the citizens in these districts at the mercy of district court judges—thereby entailing upon a large portion of our fellow-citizens the very evils which the gentleman so eloquently deprecated. No such objection exists against the plan I have proposed. It removes all these evils; it presents an equal and uniform system; it carries this equality and uniformity into every part of the Union.

If I did not misapprehend the honorable gentleman, he seemed to take it for granted that the bill involved no new principle, that it merely extended the present circuit court system, which he told us had been sanctioned by long experience. Sir, plans may appear the same on paper, and yet widely differ in principle and practical results. Had he proposed to increase the number of the justices of the Supreme Court to one hundred, instead of nine, and to create a new circuit for each, would not the committee have instantly perceived that the plan, though the same to the eye, was founded upon a new principle, and for the attainment of purposes different from those which the framers of the present circuit court system designed? It appears to me that the bill contains a new principle. I may be wrong. And should the committee think I am wrong, still I hope they will bear with me, while I state some of the reasons which have led me to the conclusion, that, by passing the bill, we shall not only depart from the old, but shall adopt a new system, highly dangerous in its character and consequences.

The duties of the justices of the Supreme Court are of two distinct kinds. One kind consists of those duties which grow out of the original and appellate jurisdiction of the court, and which they must, and they only can, per-



form. These, therefore, are their principal duties. The other kind consists of those duties which Congress has, from time to time, imposed upon them, by requiring them to hold circuit courts. These duties are performed by them, not as justices of the Supreme Court, but as judges, of an anomalous character. These duties can and may be performed by others. They are, in fact, now performed by some one or other of the district court judges. It seems, therefore, too plain to be controverted, that these duties are merely and wholly incidental and subordinate to their principal duties.

I agree with the honorable chairman, that we ought not to resort to independent circuit courts and judges, if a better plan can be devised. Still, I think the circuit court system less objectionable than the plan proposed by the bill; and the plan I have submitted less objectionable than either, because it is simple, cheaper, more efficient, and more uniform. But I cannot agree with him, that the prejudices of the people against the old system of 1801 still exist. Sir, I know nothing of the men, or the motives, or the measures of that day, except from history. I am no advocate of that system; it will not do for the present day; it lived but a year, and I will not open its grave, nor disturb its ashes. By recurring, however, to the history of that stormy period, the committee, I think, will find that that system was abolished, not because it proved to be intrinsically or practically wrong, but because the people thought such a number of judges unnecessary and burdensome. So in the present case. Is not the honorable gentleman in danger of falling into the same difficulty? Is not his plan obnoxious to the same objections? Are nine justices of the Supreme Court necessary? They are not for the security of the constitutions, or laws, or liberty of the country. As their numbers are increased, their individual responsibility will be less felt, and their high powers will be exercised with less and less consideration and care. Nor are nine necessary for the prompt and discreet administration of justice. But all the purposes of justice will be readily and equally attained by adopting the plan which the amendment proposes. Should experience prove that intermediate courts are convenient and desirable, they may be easily formed of the district court judges, without at all disturbing the harmony or uniformity of the system. There are now twenty-seven district judges, and thirty-two or three districts. Courts may be organized, composed of three of these judges. Take New York and New Jersey, for example. They are divided into three districts, and have three judges. It is so also with Pennsylvania and Delaware. In this way, nine courts may be organized, with appellate jurisdiction, or with the jurisdiction which the present circuit courts possess, with the merit of embracing all the States, and of producing entire equality among all, without the appointment of a single new judge.

Against the separation of the justices of the Supreme Court from the circuit courts, the honorable chairman strongly objected, because in that event, the justices might become idle, rusty, and corrupt. These are not the terms he used; but if I did not mistake the design of his remarks, these were, in his judgment, the probable consequences which might flow from withdrawing the justices from the circuits.

The existing prejudices upon this subject cannot be the fruits of experience. This plan, in regard to the Supreme Court of the United States, has never been fairly tried. And the experience of State courts, in this respect, will be found to have little application to the case before us. I readily admit that the justices of the Supreme Court will derive some advantages from attending the circuits. But I cannot admit that those advantages, be they what they may, will countervail the evils of increasing the number of justices on the bench, or that they will be such as the honorable gentleman supposed. It is true, that riding the circuits will keep them from idleness. So will travelling for any other purpose. So the time thus employed, if applied in examining the laws of the country, will not only keep them from growing idle and rusty, but will make them abler lawyers and better judges.

The same advantages, moreover, will result from attending the different terms of the Supreme Court, if my amendment be adopted. But they are to learn the laws and practices of the States, by holding the circuit courts! How is this to be done? Is it by traversing the States in stage coaches or steamboats? Or is this knowledge to be acquired from the contradiction of lawyers during the trial of a cause? To what extent? Is the circuit judge to attain a profound knowledge of all the laws, customs, and practice of the States in which he holds, and while he is holding his court? This will not be pretended. It appears to me, therefore, that, to sustain this argument, it must be shown that the knowledge of the law or the practice thus acquired at the circuits, be it much or little, cannot be obtained in any other way, and that, without it, the Supreme Court cannot come to a just decision upon causes brought up from the circuit courts. The honorable gentleman, in support of his argument, referred to the Supreme Court of England, and seemed to conclude that, as the justices of that court were benefited by performing *nisi prius* duties, so ours would be alike benefited by performing circuit court duties. Sir, to judge of this matter rightly, we must attend to the facts in the two cases. What are they? The Supreme Court of England has no jurisdiction of equity or of admiralty causes. The Supreme Court of the United States has jurisdiction of matters at law and in equity, and of admiralty and maritime causes. In England, there is but one constitution of Government. In the United States, there are twenty-five distinct constitutions of Government. There, one code of statute law

JANUARY, 1880.]

The Judiciary.

[H. OF R.]

prevails. Here, there are twenty-five different codes of statute law. There, we find, with trifling exceptions, but one system of common law. Here, we find twenty-four systems of the common law, each varying from the other. There, the rules of practice and the law of evidence are the same in all her courts of *nisi prius*. Here, the rules of practice and the law of evidence are different in every circuit court in the Union. What next? Why, the justices of the Supreme Court of England, when in consultation, compare the knowledge which each has acquired, of the same constitution and laws and practice, and by which each has been always and every where governed. But when the justices of our Supreme Court are in consultation; is it so with them? It is not—because the local constitutions and laws and practices are not the same in any two of their circuits. Now, according to the argument, the justice allotted to one circuit is supposed to rely upon his brother justice for information as to what the law, or the practice, in each particular case, is in another circuit. But, if each justice possesses a thorough knowledge of the whole law of the case, then such information will not be sought or required, and the decision of the case will be the judgment of the court. Whereas, if this sort of information be material and necessary, then the decision of the case is no longer the judgment of the court, but of a single member of the court.

The honorable chairman apprehended that the justices, if withdrawn from the circuits, would probably come to the city of Washington to reside, where they might possibly, in future time, become corrupt. Sir, if I thought that the political influences of the day would act more strongly upon them, than upon other men here, I should agree with them. But is there danger that corruption will insinuate its way into the bosom of the court? If so, where is it most likely to effect its purpose? Is it here, when the eye of the nation is continually upon them, and where the concurrence of three or four, at least, is necessary to decide a cause; or at the circuits, where they may be taken in detail, one by one, and where, too, both the property and the life of the citizen may depend upon the decision of a single circuit judge?

I very much regret one remark which fell from the honorable gentleman. I was sorry to hear him invoke, in advance, the public indignation upon the court, by characterizing it as fulminating its decrees from a dark and vaulted chamber, declaring State laws unconstitutional. Wherefore utter a doubt as to the exercise of powers which are clearly constitutional? Wherefore seem to impugn the members of a court justly distinguished, as well for their learning and integrity, as for their republican meekness and simplicity? And wherefore cast the dark shades of suspicion over this high tribunal? It is the only strong barrier between armed power and the unarmed citizen. It should be cautiously touched. Sir, much

handling soils the whiteness of the ermine, as it dims the lustre of fine gold. And though it do not destroy, it deeply injures.

The honorable gentleman gives me to understand that he did not deny this high power to the court, of deciding upon the constitutionality of laws. I know, sir, he did not. But his language implied that the exercise of it was odious. It is of that I complain. What is doubted, soon comes to be denied. Is not this great power indispensable to our safety? And if so, ought it to be impaired? Suppose Congress should suspend the writ of *habeas corpus*, when there was no war, nor insurrection, nor rebellion—in a time of profound peace, and when every man would admit the suspension to be unconstitutional? An innocent citizen is arbitrarily seized and imprisoned; what redress has he? Will he come to Congress for it? Congress is his oppressor. Where then must he go? He must go to this same "dark and vaulted chamber." There is no other power that can open his prison doors and set him free. Again—suppose a State Legislature should revive the old law of *attainder*, or make bank bills, for example, a legal tender, instead of "gold or silver?" Where else than to this court can the citizen go, for the protection of his property, and his blood? But if the war be carried further, as it might be, and a State Government should wantonly *attain* federal officers—and the Federal Government should arbitrarily imprison State officers, who could stay the strife, and redress the wrong, but the Supreme Court? It is the constitutional judge, and there is none else. The court may sometimes err. But what then? Shall we destroy all respect for it, by direct or implied charges of usurpation? Sir, it appears to me that the fear which leads some to think that the court may wantonly abuse or usurp power, rests upon no good foundation. The justices are liable to impeachment. If they wantonly abuse their high trust, they may be impeached, and turned out of office. This is a strong security. But there is still a stronger. Congress can at any time diminish, or wholly take away, their appellate jurisdiction; and thus leave them nearly powerless. Suppose, however, that we had not this security. Will adding to their number increase their responsibility, or diminish their power, or prevent error in judgment? Directly the contrary.

Should my amendment be adopted, the permanent residence of the justices of the Supreme Court at the city of Washington would not be a thing of course. There would be no necessity for it. But suppose they should come to this city to reside, could they not acquire as much valuable information from the lawyers, and judges, and other citizens, who resort to this place, from the several States, as they could obtain while on their circuits? Besides, if it requires any eye to watch over them, would they not be subjected here to the severe scrutiny of the President, the Senate, and the im-

mediate representatives of the people? If, however, the residence of the justices at Washington be objectionable, it affords an additional reason for having two or three terms a year of the Supreme Court, instead of one. If one term of the court be held at the city of Washington, and one or two other terms be held at one or two of the following places, namely, Cincinnati, Philadelphia, or New York, some of the advantages would be obvious. It would remove the objection, if there be any thing in it, against the justices residing at any one place. They would naturally reside at different places about the country, as they now do. It would prevent delay, and make justice more prompt, by the frequency of the terms. It would be a great accommodation to suitors, by the great saving of time and expense to them. It would carry the court home to the people, and among the people. Sir, I agree that judges, to be good judges, should be employed, and constantly employed. But it is the employment of the mind that makes the judge. It is the time spent in the study, in the acquisition of legal science, and not in stages, in traversing the country, that makes the profound jurist. I have not been able to ascertain the quantity of business the court now has to do. The honorable gentleman seemed to think it might all be done in six weeks or two months. This appears to me to be too low an estimate. But, whatever the fact may be, it is very easy to give the court enough to do. By simply extending the right of appeal, there would soon be enough for the court to do.

My conviction is thorough, that the justices of the Supreme Court ought to be withdrawn from the circuits. I see no other way to maintain the integrity of the court, which I deem not more essential to its safety than to its usefulness. Think of it as we may, still this high tribunal occupies the neutral ground between the twenty-five governments and the people. No matter whether the oppression or the wrong proceed from the federal or from a State government. Uncontrolled power is the enemy of liberty, and the people's tyrant. It is, therefore, between the governments and the governed, between the powers and the duties of the people's agents, and the rights and privileges of the people themselves, that this court is the constitutional judge, and the sole judge. And he assumes a fearful responsibility who impairs this last and strongest citadel, to which man can flee for the protection of liberty or life.

Mr. POLK next rose. He said that, in considering the bill now before the committee, and the amendment offered as a substitute for it by the gentleman from New York, who had just resumed his seat, he perfectly agreed both with the chairman of the Committee on the Judiciary and with the gentleman from New York, that, whatever the judicial system of the United States be, it should be uniform; that the inferior judicial tribunals, however organized, and with whatever jurisdiction and power it was

deemed wise to invest them, as well as the mode of administering justice, should be the same in every portion of the Union. If (said Mr. P.) "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," and if the States are entitled to be governed (as far as this Government can legitimately extend its authority) by equal and uniform laws, operating alike upon every portion of the country, it is difficult to perceive upon what principle it is that the judicial system extended to one portion of the Union should be withheld from another. All the States are equal in point of dignity and of rights. The principles of this bill I prefer to the amendment, though I am not entirely satisfied with either. The bill proposes no new system, but an extension of the old one, long enjoyed by the Atlantic States, to the Western country. I could have wished that its provisions had not only extended the system, but have made it the same in all the States. The West asks this; and is her request unreasonable? In the Atlantic States there is no complaint. There should be none in the nine Western States. Your judiciary ought to expand itself with the growth and population of the country. The system which has been tested by the experience of forty years in the Atlantic States, and which was adapted to our condition in our infancy, has not been enlarged so as to suit us in our manhood. We have outgrown the garment that then fitted us, and it is now too small. Six of the Western States are wholly without the benefit of the present circuit court system, (having only district courts,) and it has been but imperfectly extended to the seventh circuit, composed of Ohio, Kentucky, and Tennessee, as I shall presently endeavor to show.

In order to show more distinctly the inequality of the present system as regards the Western States, compared with those east of the Alleghany mountains, it may be well to look, for a moment, to the judicial history of the United States, and to ask of gentlemen here representing the East, why this inequality should have been permitted so long to remain, and what sensible reason there can be now to refuse the remedy.

When the judiciary act of September, 1789, was passed, there were but ten States in the Union; North Carolina, Rhode Island, and Vermont came into the Union subsequently to the passing of that act; and the system which it provided was extended to the former in June, 1790, and to the latter in March, 1791. At the date of that act, with only ten States in the Union, and with a population not exceeding one-third of the present population of the twenty-four States, it was deemed necessary to appoint six judges of the Supreme Court. The States were divided into three circuits, the Eastern, Middle, and Southern. North Carolina was attached to the Southern, and Rhode Island and Vermont to the Eastern circuits, as

JANUARY, 1830.]

*The Judiciary.*

[H. OF R.]

they respectively came into the Union. Two judges of the Supreme Court were required to preside in each circuit with the respective district judges, and constituted the circuit court, until the act of March, 1793, when one judge of the Supreme Court and the district judge composed the circuit court, who were required to alternate or interchange circuits with each other. It is not my purpose to detain the committee by a minute account of the judicial history, further than to show the inequality of the system as it operates in the different States. The chairman of the Judiciary Committee, in his opening argument, has relieved me from the necessity of doing so. Thus the system continued until the famous act of the 18th February, 1801, familiarly known to the country as the midnight system. By that act, the Supreme Court judges were relieved from circuit court duties, and were to constitute an appellate court alone. Many additional circuit judges were created and commissioned, two of whom, with the district judge, constituted a court termed a circuit court. This system is not precisely the same with that proposed by the gentleman from New York, but differs from it only in this, that the gentleman's amendment does not propose the appointment of circuit judges, but to invest the district judges with circuit court powers. At the first session of Congress after Mr. Jefferson came into office, the system of 1801 was repealed, and the new judges legislated out of office; and, at the same session, the former system was reorganized, with slight and immaterial alterations from that of 1793, not important here to mention, and the system which we now have was established. At the reorganization of the system in 1802, Kentucky and Tennessee had been admitted into the Union. Ohio came in shortly afterwards. They were left with only district courts—being at that time unimportant districts, with a sparse and comparatively small population, with but little judicial business to transact, falling within the jurisdiction conferred upon the federal courts. In 1807, they had grown in numbers, in business, and importance, to such an extent, that a law was passed constituting them into a circuit, and appointing a seventh judge of the Supreme Court, who was allotted to that circuit; and who, with the respective district judges in those three States, constitute circuit courts. Louisiana was admitted into the Union in 1812, Indiana in 1816, Mississippi in 1817, Illinois in 1818, Alabama in 1819, Maine in 1820, and Missouri in 1821. The circuit court system was extended to Maine at the same session of Congress that she was admitted into the Union as a free and independent State. The other six States, although admitted into the Union upon an equal footing with the original States, have, to this hour, only district courts. No judge from that quarter of the Union has a place upon the bench of the Supreme Court. No judge of the Supreme Court ever aids the district judge in the trial of causes in that quar-

ter of the Union. The constitution, the treaties, and laws of the United States, the constitution and laws of the States, which may be drawn in question in this court, affecting these junior members of the confederacy, in common with the older States, are now expounded by a court of the last resort, composed of six judges east of the Alleghany, and but one west of it, and that one having no connection with these six States. They have no participation, direct or indirect, in this high tribunal, in protecting or defending the lives, the liberties, or the property of their citizens. Sir, the population of these six Western States is already great, and is rapidly increasing. It is already near two millions of inhabitants. More than twenty-two years have elapsed since the system was extended, imperfectly as it is, to the seventh circuit. Within that period the thick forests of the valley of the Mississippi have been filled by your enterprising and adventurous citizens; and the vast region, then an uninhabited waste, but recently reclaimed from its savage possessors, now swarms with a dense, a free, and a happy population of civilized freemen. The judicial business has increased to such an extent, that they feel the inconvenience of their exclusion from the benefits of the circuit court system, and they clamor for its extension. So great has the judicial business become, that you have already found it necessary, in two of these States, (Louisiana and Alabama,) to establish two district courts in each of them. And let me say, sir, that the district courts at New Orleans and Mobile—whether regarded from the quantity of business which they do, or from the great importance of the legal questions which it often becomes their duty to decide—are second in importance to but few courts in the Union. Are these new States, let me ask, always to remain in their present condition—as judicial provinces? If they are not, has not the time come to extend to them the benefits of the system which you enjoy east of the Alleghany ridge?

I come now to speak more particularly of the seventh circuit; of the inadequacy of the system as at present extended there, and of the utter inability, the physical as well as mental inability, of any one man to perform, as he should, the various duties that devolve upon him in that extensive circuit. In addition to the large territorial extent of that circuit, and the great distance of travel which the judge has annually to perform, in attending the courts at Columbus, at Frankfort, at Nashville, at Knoxville, and the Supreme Court in this city, and in addition to the cases within the jurisdiction of that court, common to all the States, there is a very large mass of litigation there, in regard to land titles, which is scarcely known in the Eastern States. The land litigation in that circuit, over which this court has concurrent jurisdiction with the State courts, is more extensive, and the cases more numerous than in all the Eastern States together. Many of the lands in

Tennessee were patented by the State of North Carolina more than forty years ago, when the territory belonged to that State, and when the lands were subject to the Indian possession; and many of the lands have been patented by Tennessee since she has been a member of the Union. It is a fact that cannot be controverted, and need not be concealed, that such is the intricacy and complexity of the land laws of North Carolina and Tennessee, constituting almost a volume of themselves, and certainly forming a distinct code different from any other I have ever seen, that but few men of the profession of law in that State with years of study and constant practice in the courts, have ever acquired the reputation of being sound land lawyers. Such was the peculiar system of acquiring titles to lands, and such the looseness and uncertainty which prevailed in practice, both in North Carolina, and afterwards practised upon in Tennessee, that one of the greatest scourges that has ever visited the people of that State is the uncertainty of their land titles, and the vast amount of litigation that has grown out of this state of things. Much the greater portion of this description of litigation, I hope, indeed I know, has been disposed of; but, at the same time, much, I fear, yet remains to be settled. This description of litigation, added to the other business, over which the court has jurisdiction, is one great cause of the great delay of justice in the federal court at Nashville. The chairman of the committee has already stated the fact, as represented by the bar of that place, to this House, several years ago, that such was the delay of justice in that court, that some of the causes on the docket were older than the professional career of almost every member of that bar, some of whom had been in practice a dozen and more years. In Kentucky and Ohio, but more especially in the former, much litigation of the same character has existed. Kentucky, when a part of Virginia, was, in great part, patented by the State; and many of the lands in some portions of Ohio were patented by Virginia and other States. The Representatives from both these States inform us, that the courts there have not the time nor the ability to dispose of the causes upon their respective dockets. If this be the fact, and it cannot be controverted, of what consequence is it, that, upon your statute books, you extend the circuit court system to those three States; but so overburden the judge that is allotted to that circuit, that he has neither the merits nor the physical ability to do the business? When those three States were constituted into a circuit in 1807, their population did not exceed half a million of souls. It amounts now to more than two millions. Then the litigation was comparatively small; now it is great.

I have thus attempted to present to this committee the true present condition of the nine Western and Southwestern States, in reference to the operation of the federal judiciary within

their limits. That condition presents many evils and inconveniences that require a remedy. What that remedy should be, it will be proper that I should next consider.

And first, will this bill afford the remedy which the existing evils require? It will unquestionably in part, and but in part, remedy some of the existing inconveniences of the present organization of the courts; but I regard it as a misfortune that the Judiciary Committee who reported it had not gone further, and afforded a complete remedy. Three additional judges, instead of two, would have enabled us so to arrange the circuits as to extend equal justice to the West, and to afford a system that will require no alteration or extension in all time. This bill makes no provision for the western district of Louisiana, or the northern district of Alabama. The courts at Opelousas and at Huntsville are still to be left with only district courts. The four States of Ohio, Indiana, Illinois, and Missouri, are crowded into one circuit; Kentucky and Tennessee are united in one circuit; and the southern district of Alabama, Mississippi, and the eastern district of Louisiana, are thrown in one circuit. Sir, the chairman of the Judiciary Committee has stated that Tennessee and Kentucky must be united in one circuit, however reluctant the Union may be. That, he says, is the only arrangement by which nine judges can be made to answer for the present. That gentleman, when this subject was last before Congress, in 1826, voted with a large majority of this House to separate Kentucky and Tennessee, and throw them into different circuits, because of the undue proportion of judicial business in those two States; that gentleman, at that time, voted for ten judges instead of nine. He then thought less than ten judges would not do. If it was then proper to separate Tennessee and Kentucky, what has since occurred to render it so peculiarly necessary to unite them now? If the state of the Western country was in such a condition then, that, in the opinion of the gentleman, ten judges were required to do the business, what has since occurred to change that opinion? Has not the Western country been advancing rather than receding in population, since that time? Has the judicial business decreased, or, rather, has not the gentleman himself labored to prove to us that it has increased since that time? At that time, I believe, it was admitted by all who advocated the extension of that system, that less than ten judges would not afford a remedy for the evils of which the West complained. The then chairman of the Judiciary Committee in this House, (now a Senator from Massachusetts,) in reporting the bill with ten judges, I well remember, stated that he rather assented to ten judges, than recommended their appointment at that time. He rather inclined to prefer nine to ten judges, but ultimately voted for ten. I see gentlemen around me noting this. They will be pleased to note, too, the ground upon

JANUARY, 1830.]

*The Judiciary.*

[H. OF R.]

which that opinion was expressed by the then chairman of the Judiciary Committee. It was that, in his opinion, the three Northwestern States (Indiana, Illinois, and Missouri) "might well enough go on for some time longer, and form a circuit of themselves, perhaps, hereafter, as the population shall increase, and the state of affairs require it."

This was the only plan by which the then chairman of the committee thought it practicable to make two additional justices of the Supreme Court answer the demands—the just demands of the West. It was to leave Missouri, Indiana, and Illinois, with only district courts for the time being, and constitute them into a circuit at some future period. The bill in 1826, after a protracted discussion of many weeks, passed this House, adding three additional judges to the Supreme Court, making the whole number ten. The same bill passed the Senate with the same number of judges, but was amended in that body so as to change the two northwestern circuits in their arrangement. The bill, as it passed this House, placed Ohio and Kentucky in the seventh circuit, in which there was already a judge residing, and constituted Indiana, Illinois, and Missouri into a separate circuit. The Senate passed the bill without alteration in its material parts; but proposed to change those to circuits, so as to make Kentucky and Missouri the seventh circuit, and to constitute Ohio, Indiana, and Illinois into a circuit. The bill, as it passed both in the Senate and in the House, placed Tennessee and Alabama in one circuit, and Mississippi and Louisiana in another. In consequence of this immaterial difference of opinion between the two Houses in the arrangement of the two northwestern circuits, the bill unfortunately failed between the two Houses. Although the two Houses then agreed in opinion that it was proper to extend the system, and to add three additional judges to the bench of the Supreme Court, yet, in consequence of this unimportant difference of opinion about these two districts, the Western country remains to this hour without the enjoyment of the system which that bill proposed to extend to her. Let, then, additional judges be appointed in the West, and let the circuits be properly arranged, and the system will last for all time. When Florida, Arkansas, and Michigan come into the Union, (and the period is not very distant when we may expect their accession to the Union,) they can be very naturally attached to the adjacent circuits, without much increasing the duties of the judges. To make the system entirely uniform I would attach the northern district of New York, the western district of Pennsylvania, and the western district of Virginia, if the gentlemen from those quarters of the Union desire it, to the respective circuits already established east of the Alleghany, which they adjoin. Your system would then possess no anomalies, it would have symmetry in all its parts. If the amendment of the gentleman from New York

should be rejected, and no other gentleman does, I will, myself, propose an amendment to make the system such as I have indicated. If the House shall decide to appoint only two additional judges, then justice will require that the eastern circuits should be enlarged, so as to give the services of one, at least, of the judges now east of the mountains to the West.

What, sir, let me inquire, is the amendment of the gentleman from New York, so far as the Supreme Court, as a mere Supreme Court, is concerned, but a re-enactment of the system of 1801? It proposes to withdraw the judges of the Supreme Court from their circuit duties, and to constitute them a permanent appellate court. So did the act of 1801. It provides that the circuit courts shall be abolished, and that the district courts shall possess the jurisdiction and powers of the present circuit courts. If the amendment offered had gone on to provide for the appointment of two additional judges in each circuit, to hold the courts with the respective district judges, it would have been precisely the system of 1801. This is the only difference. The amendment has only this to recommend it which that system had not, that it does not increase the number of the inferior judges and does not enlarge the patronage of the Executive.

When we contemplate the system proposed by the gentleman's amendment, in the most dispassionate manner, there are many and irresistible objections to it. Some of these have already been stated by the gentleman from Pennsylvania, in his general remarks in the opening of this debate. If the judges of the Supreme Court are confined exclusively to their appellate duties in bank, there is danger—indeed it is almost certain that they will cease to employ themselves in the recess of the Supreme Court, in the dry, laborious, and uninteresting employment of reading the statutory codes of twenty-four States, and the judicial decisions of the State courts founded upon these codes scattered through a hundred volumes, and all of which it is necessary they should understand. No man with the most unremitted application and study, can be so good a lawyer, no man can be so good a judge of the *lex loci*, or statute law of a State, who is confined to the trial of appeals and writs of error at Washington, as one who presides on the trial of the cause in the inferior court, where the law, and the decisions of the State in which it prevails, are familiar to the profession of that State, who elucidate and apply it in argument in the court below. The great advantage derived from the present circuit system, is, that, by requiring each judge of the Supreme Court to preside with the district judge in the trial of causes in the inferior courts, you make him familiar with the statute or local law within his circuit. And when the Supreme Court assembles in bank to try appeals and writs of error, some one of the judges is always familiar with the law upon which the decision of the case may

depend, and by this knowledge is enabled to abridge the labor of his associates, and afford them facilities in examining the case, and in arriving at a just conclusion. What judge permanently located at Washington, however vigorous his intellect, and however profound his knowledge of the fundamental principles of the law may be, but who never presided over the trial of an ejectment in Kentucky or Tennessee, if left to grope his way unaided by the argument of counsel from that quarter of the Union, can ever understand or properly expound the intricate local laws of these States? What judge can understand the *lex loci* of Louisiana, where the principles of the civil law obtain? In a word, what one man, wholly relieved from the trial of causes in the court below, can or will ever understand the separate and distinct codes of these twenty-four States? Even by the present circuit court system, in those States to which it has been extended, no single judge has an accurate knowledge of the statutory codes of all these States; but when assembled in the Supreme Court, they bring together an aggregate of legal information, which no one singly possesses, and which could not be possessed by any, if they were withdrawn from their circuits. If the judges of the Supreme Court are required to preside only in the Supreme Court, they will have nine or ten months of leisure in the year, which they can, and probably will, employ in more pleasing pursuits than in poring over musty volumes of statutes. It has been often justly remarked that constant employment on the bench, and being constantly thrown in collision with the profession, makes the best judge; or, as it has been aptly expressed, "the judge who tries the most causes is the best judge." The gentleman from New York thinks that there is not much in the argument, that the judges upon the circuit can acquire legal information that will be useful to the Supreme Court assembled in bank; and he puts a case. Suppose, says he, the court to consist of nine judges, and each to perform circuit duties. One of these judges presides on the trial of a cause at New Orleans, and there is a writ of error to the Supreme Court; one judge will understand the municipal law of Louisiana upon which the case depends; the remaining eight do not, but must investigate it for themselves. The case put by the gentleman illustrates and enforces the argument which I have stated. Suppose the ninth judge had not presided on the trial at New Orleans—then the whole court would have been without the necessary legal information. Did it not occur to the gentleman in the case stated by him, that it was better for one to possess the information, than that none should? Did it not occur to him that the judge who had the information might afford facilities to his associates, by pointing them to the authorities which would throw light upon the questions to be decided?

THURSDAY, January 21.

*West Point Academy.*

The House proceeded to the consideration of the resolution moved by Mr. BLAIR, of South Carolina, on the 14th instant, and laid on the table; which he now modified so as to read as follows:

"*Resolved*, That the Secretary of War be requested to furnish this House with a register, exhibiting in each and every year, the names and number of all the cadets that have been received into the Military Academy of the United States from its first establishment until the present time. Also, the names and number of applicants rejected; the States from which they came respectively; distinguishing between those who have graduated and received commissions, and such as have withdrawn or have been dismissed from the institution; how many have been in said academy, whose fathers and guardians were, or are now, members of Congress, or other officers of the General Government, or Governors of States, and how many such are now there; what the monthly pay of the cadets, and whether they are supplied with rations, fuel, quarters, &c., at the public expense, or are furnished by themselves; stating also, as far as practicable, what proportion of them (if any) were in circumstances too indigent to be educated on their own means, or those of their parents; the names and number of those graduates now in the army of the United States; also, the names and number of the professors, instructors, and all other officers employed in said academy, with their pay and emoluments—adding thereto the entire aggregate expense of the institution, annually, with such remarks as may explain and elucidate the whole."

Mr. INGERSOLL said, a call for information is one of the last things which he ever permitted himself to oppose. Nor did he rise now so much to interpose an objection to the call, as to refer the honorable mover of the resolution to several reports from the War Department in the library of the House, which will be found to contain nearly all that is sought for by the proposed inquiry. If, after looking into these documents, the gentleman from South Carolina should still wish to urge the passage of his resolution, although he (Mr. I.) might deem it in the main unnecessary, yet he could not say that he should vote against it, so reluctant was he, as a general rule, to put any obstacle in the way of an inquiry, directed to one of the executive departments, that any member should see fit to suggest. This military academy is one of those establishments that has been probably more closely watched than any other within the range of our legislation; and there have been, from time to time, so many searching resolutions sent to the War Department on its account, that there is hardly a spot left which we may wish to touch by a resolution that has not been covered by some previous call. These inquiries, so far as they had fallen within his observation, have been, in every instance, promptly and fully responded to by the department under different administrations; volume



JANUARY, 1830.]

*West Point Academy.*

[H. OF R.]

after volume of reports are sent to us, printed, bound, and placed upon the shelves of the library, not, sir, it would seem, to be opened by us, for whose benefit, and at whose beck, but not at whose expense, they were placed there, but to be followed by other fresh volumes, embracing the same facts, and sent to every new Congress, in reply to the requisition of some honorable member, to whom, as a matter of course, we extend the courtesy of our votes. This practice, he thought, was going too far. Why repeat these drafts upon the department, when, by looking at our own documents, we can find, ready printed, the very information for which we are looking elsewhere? But, to come to the resolution now before us: it asks for a list of cadets who have belonged to the academy since 1802, noting those who have been commissioned in the army, and those who have left without commissions. Now turn to the volume of documents for 1824, and we shall find a very full and lucid report from the then Secretary of War, (the present Vice President,) bringing the required information up to that period. It gives us the number admitted in each year; the number who have completed the regular course of studies; a list of those who have received commissions, and those who have been dismissed, or permitted to depart, without commissions, from the first establishment of the institution, under President Jefferson, to the then present time. But this is not all, nor a tenth part of what we have drawn from the department in relation to it. In 1822, the House, in answer to one of its resolutions, was furnished with a list of all the cadets who had left the academy without entering the army, and the amount of money paid to each during the five preceding years; also, a list of such officers as have been educated there, and who served during the last war. What more can you reach by this resolution (in regard to these particulars) than you already have, for the time, covered by these reports? Subsequent reports, and the blue book, which is put into the hands of every Congress, and which will be in a few days upon our tables, bring the information up to the present time. Besides, we had a report at the last session from the gentleman then at the head of the department, (General PORTER,) which gave us the number of cadets commissioned since 1820, designating those now in the army; and his predecessor, (Mr. BARBOUR,) in the session before, sent us, in answer to a call, a particular statement of the expenses of the institution, from year to year, ever since it was organized. What else do we now ask for? Why, that the Secretary of War would tell us how much the monthly pay of a cadet is. What, sir, after having made a law ourselves establishing the pay, shall we send elsewhere to be informed as to the wages we ourselves allow? Shall we who are a part of the legislative branch of the Government, send to an executive department to learn the tenor of our

own laws? This would be an anomaly in legislation. If you wish for such information, open your statute books, would be a very proper answer of the Secretary to such an inquiry. But, as if to render this part of the call doubly useless, we have been furnished, for nearly fourteen years past, with a minute statement, in the blue book, of the names and number of all connected with the academy, whether as teachers or cadets, the States from thence they come, and an accurate account, in dollars and cents, of the sums paid to each. Other calls and other reports, similar in kind, might be referred to; for there has hardly been a session during the last ten or dozen years, that a paper shot has not been aimed at West Point from this or the other branch of Congress.

But a few words as to another item; the resolution asks for a list of officers now in the army, who were educated at the academy. Precisely this list was furnished but one year ago by the late Secretary, and is with the rest carefully bound in one of the volumes of the documents of the last Congress: surely it cannot be necessary to send again to the department to have the names written by one of the clerks, when we have them in print, at the command of every gentleman who wishes to see them.

Mr. BLAIR, of South Carolina, said, it had then become necessary that he should state his reasons for offering the resolution; and, in answer to the gentleman from Connecticut, it was sufficient to say, that any document or report we have ever had in relation to the Military Academy, was quite deficient in details, and altogether silent as regarded several important items of information called for by the resolution. He had examined those documents, (he said,) the most ample of which was the report made in 1828, and it was, as he had stated, quite deficient. He thought full and entire information in relation to that very expensive, if not important institution of our country, would have been desirable, not only to the Military Committee of which he was a member, but to Congress generally, and to the nation. He, therefore, had not been disposed to make a speech in support of a mere call for information. He thought he should be regarded as bestowing a poor compliment on the intelligence and honest intentions of that House, were he to offer reasons or arguments in support of such a proposition; and believing there could be no reasonable objection to the adoption of the resolution, he had been disposed to submit it to the decision of the House without a single comment. He certainly had not (he said) anticipated the opposition to the resolution which it now seemed destined to encounter. Some of the senior members of the House, (he said,) to whose examination it had been submitted before it was presented, thought it ought to pass, and would pass, as "a matter of course." Surely (said Mr. B.) it cannot be the policy of this House to suppress information, full



and entire information, as to the utility and operation of one of the most expensive establishments of the Government, particularly when it is well known that jealousy and prejudice exist against the institution to a very great extent. Suppressing or limiting the information now called for, would not (he said) lessen the jealousy, or obviate the prejudice of which he had spoken. Many well-meaning and well-informed men (said Mr. B.) regard this military academy as the hot-bed of a military aristocracy. They view it as a dangerous excrescence of the Government that ought to be out off. In its original organization, under the administration of Mr. Jefferson, it was intended only to educate a few military engineers, to construct, when necessary, military fortifications, &c. But it has been perverted from its original and legitimate object, and changed, by "piecemeal," into what it is at present, and what, originally, would have been regarded as highly inexpedient on account of its expense, and quite unauthorized by the constitution on account of its objects. It is believed, too, that the public utility resulting from it, if any, is far outweighed by its cost; and although it is nominally a military school, open to all, yet it is, in fact, a school only for the great and the wealthy, where none but the sons or favorites of men possessing power or popularity can be entered—most of whom, after being educated at the public expense, retire to private life, while at the same time the expenditures of the establishment (as was well known to all) were drawn from the pockets of the poor as well as the rich. He knew it would be said the poor were received into the Military Academy, as well as the opulent. Well, (said Mr. B.) this is one thing among many others that I wished to ascertain by the resolution I have offered. The fact is doubted—or if a few instances can be adduced where poor friendless cadets have been nurtured by the institution, they only weigh as the "dust in the balance" against those of the opposite description; and if not dismissed for incompetency—as it rarely happens that a poor, friendless lad can obtain credit even for a little common sense—they are retained only in a few solitary instances merely to "save appearances."

Mr. B. said further, if the inquiry was permitted to be made to the extent he proposed, he thought it would be found that the patronage, favors, and benefits of the institution were principally bestowed upon those least in need of them; he meant the sons and favorites of the wealthy—men possessing office and authority; who would be educated if the Military Academy had never existed—and who, not being absolutely dependent on arms, or any other profession or business, generally preferred their ease to a continuance in the public service; and, indeed, if they continued in service, we would soon have more officers than men.

Sir, (said Mr. B.), all those objections, and all those doubts and suspicions are entertained

by a respectable portion of the community. He, therefore, thought the friends of the institution (if indeed those doubts and suspicions were unfounded) ought to encourage a full and complete inquiry into all those matters. If the operation of the institution had been as beneficial and impartial as its friends seemed to imagine, they had nothing to fear from the inquiry. If (said Mr. B.) they have done well in fixing upon us this expensive establishment, I hope they will not refuse to exhibit its results. "They ought not to keep their candle under a bushel." If (said he) the institution has operated impartially and for the public good, a development of its merits will make it more popular. If, on the contrary, it is partial and exclusive in its operations—carrying with it some latent danger—and is, at the same time, more expensive than useful, the sooner it can be known the better—and it ought to be known both in and out of the House—it ought to be generally and universally known. He hoped, therefore, the resolution would be adopted. The information it contemplated, was altogether desirable; as a member of the military committee he asked it; as a member of that House he requested it; and as one of the American people he demanded it.

Mr. B. concluded by offering a modification, by adding after the words "members of Congress," all other officers of the General Government, or Governors of States.

Mr. DORSEY said he hoped the gentleman would accept a verbal amendment which he was about to offer. He professed himself a friend to the institution. He wished to see it flourish—he wished to allay all prejudice against it. It had been his uniform temper and disposition to encourage resolutions for inquiry, and he should not object to it on this occasion. But he could not consent to a resolution which would emblazon to the world the names of juvenile delinquents, who might now be useful members of society and ornaments of their country. He could not agree to harrow up the feelings of fathers and families, by publishing the names of such as may have been expelled or discharged for boyish indiscretion, which the individual guilty of them may now deeply deplore. He asked what earthly good could result from it? After some further remarks, he proposed to amend the resolution by striking out, 1st, "names and" where they occur the first time; 2d, "how many have been in said academy, whose fathers or guardians were, or are now, members of Congress or other officers of the General Government, or Governors of States;" 3d, "also, as far as practicable, what proportion of them (if any) were in circumstances too indigent to be educated on their own means, or those of their parents."

Mr. BLAIR replied, that he would have no objection to any amendment that would make the inquiry more broad, or render the desired information more ample and complete; but the amendment proposed would have the oppo-

JANUARY, 1830.]

*West Point Academy.*

[H. OF R.]

site tendency. It would, if adopted, render the resolution almost a nullity, make it quite useless. Indeed, (he said,) he should regard the adoption of the proposed amendment as tantamount to a rejection of the resolution itself. The names (he said) were essential for the purpose of showing how the patronage of the institution had been bestowed, and to what class of society its benefits had been confined. For example, (said Mr. B.,) suppose that ten cadets, from South Carolina, Maryland, or any other State, have been dismissed from the Military Academy, without their names; how are the people, or how are we, to ascertain to what rank of society they belong? Without their names it would be impossible to determine that point. He disclaimed every thing invidious, or calculated to reflect censure on the members of Congress; or to attach criminality to those who had recommended applicants for admission into the Military Academy. In that respect, (he said,) he presumed all, or nearly all, were equally guilty. He himself had, on one occasion, made such a recommendation, and it had been successful. He again repeated, he meant nothing invidious, and was not disposed to wound the feelings of any one, or to hold them up as objects of scorn or derision; and he was sure the report called for by the resolution could not have that effect, inasmuch as the cause of dismissal was not required. But the names being necessary to show how the patronage of the institution had been bestowed, he hoped they would not be stricken out. It was true (he said) that some small part of the information called for might be found in reports made heretofore; and that the pay, &c., of the cadets was fixed by law. But all this was scattered—little as it was, it was scattered through various documents; and those who might have an opportunity to peruse the report, might not have it in their power to examine the law. But few of the people could ascertain the laws of Congress on any subject; and his object was to have the whole of the information, contemplated by the resolution, in one document, that members might not be under the necessity of hunting through half a dozen offices, and plodding through twice that number of documents, for a few items of information about the Military Academy.

Mr. JOHNSON, of Kentucky, followed with some remarks on the subject of the resolution.

FRIDAY, JANUARY 22.

*West Point Academy.*

The House resumed the consideration of the resolution moved by Mr. BLAIR, of South Carolina, on the 14th instant, the question being on the amendments moved by Mr. DORSEY, yesterday. The first amendment was rejected; and the question being on the second,

Mr. CROCKETT, of Tennessee, hoped the amendments would not be agreed to. He labored under a considerable responsibility re-

specting this academy; he himself was opposed to the school; and as it was possibly for the want of knowledge, he wished to have all the information he could get respecting it. His responsibility arose from the views of his State on the subject. The Legislature had proposed to instruct the Senators and requested the Representatives from that State in Congress to oppose the West Point Academy in every shape; and although the instructions did not pass, his own immediate constituents would expect him to promote the fullest inquiry into the management of the institution. He hoped, therefore, the resolution would be adopted, as it was originally proposed. If any thing is wrong, we ought to see it; and I, said Mr. C., would vote against every appropriation for the academy, unless I can get full information of its concerns and management. I wish to know if it has been managed for the benefit of the noble and wealthy of the country, or of the poor and orphan. There was nothing unreasonable in the call proposed by the resolution, and he approved it in its full extent. He concluded by demanding the yeas and nays on its adoption.

Mr. HAYNES demanded the yeas and nays on the amendment, but the House refused them.

The second and third amendments were then successively rejected by large majorities.

Mr. CONDOR then moved to strike out these words: "The names of those who have withdrawn or have been dismissed from the institution." It might be, and doubtless was the case, he said, that many had been dismissed, or had withdrawn, in consequence of deficiency in mental ability, or from sickness; and was it right to hold up their names to the public, as suffering disgrace, without having committed any fault? This would be an act of wanton cruelty to the parents and friends of the young men, and of harshness towards themselves, which he hoped the House would not sanction.

Mr. HAYNES did not think any thing would be gained by the amendment, and that every thing ought to be known in relation to the academy and the cadets.

Mr. INGERSOLL supported the amendment, and Mr. BLAIR and Mr. TUCKER opposed it; and it was rejected without a count.

Mr. TEST then proposed, as an amendment, to add the words, "and how many leave the institution annually." This, also, was negative.

Mr. WICKLIFFE thought this institution had almost lost the original character given to it by its founder, Mr. Jefferson, in 1802, and he wished copies of the Register of the Academy to be furnished for every year from its commencement, that its operations might be traced through to the present time.

This addition was accepted by the mover of the resolution, and the question recurred on the resolution as amended.

Mr. EVERETT, of Massachusetts, was not opposed, he said, to obtaining any information which might be deemed necessary by any committee or member of the House. He therefore

would not object to this resolution, if it were in a form which he could approve. This, however, was not the case; and he pointed out some of its features, which he deemed not only useless, because the information could not be furnished, but invidious and improper if it could be. The resolution requires, for instance, that the Secretary of War report to the House, "how many have been in said academy, whose fathers or guardians were members of Congress, and how many such are now there." This is a strange inquisition, said Mr. E., for this House, even if it could be made with success, which it could not be with any materials in possession of the War Department. Another branch of the resolution requires the Secretary to report, "as far as practicable, what proportion of the cadets (if any) were in circumstances too indigent to be educated on their own means, or those of their parents." In the first place, it would be impossible for the Secretary, from any records in his office, to ascertain the circumstances of those who had sent their sons to the academy; and, secondly, said Mr. E., no man, however opulent, could obtain for his son an education elsewhere, such as that institution afforded. He knew something, personally, of the character and extent of the instruction given there, and he did not hesitate to say that no man, whatever his fortune, could obtain for his son the same education at any other institution. The ability of a man, moreover, to give his son an education on his own means, depended on many circumstances which Mr. E. particularized; and he argued at some length to show the impracticability of obtaining the information called for, as well as its useless and improper nature, if it could be obtained. He concluded by moving the commitment of the resolution to the Committee on Military Affairs.

The motion was agreed to—91 to 72.

MONDAY, JANUARY 25.

*Cultivation of the Sugar Cane, &c.*

The House proceeded to the consideration of the resolutions reported by Mr. SPENCER, of New York, from the Committee on Agriculture, on the 18th instant:

"Resolved, That the President of the United States be requested to cause to be procured, through the commanders of the public armed vessels, and our ministers and consuls abroad, such varieties of the sugar cane, and other cultivated vegetables, grains, seeds, and shrubs, as may be best adapted to the soil and climate of the United States.

"Resolved, That the Secretary of the Treasury cause to be prepared a well-digested manual, containing the best practical information on the cultivation of sugar cane, and the fabrication and refinement of sugar, including the most modern improvements; and to report the same to the next session of Congress."

Mr. SPENCER, of New York, briefly explained the views of the Committee on Agri-

culture in reporting this resolution; the increasing importance of this culture; and the advantage of having the best species of cane, &c.

Mr. OHILTON, of Kentucky, without doubting that the proposed measure would advance the interest of the cultivators of sugar, said that he could not for the life of him discover why this article should be thus singled out for the special favor of Congress. It was well known to every gentleman, that a great part of the people of this country live, not by the cultivation of sugar, but of corn and various other products of the soil. Why then draw on the Treasury to purchase a book in relation to sugar particularly, the expense of which could not be known to any gentleman on this floor? Is the practical agriculturist—the honest farmer of the country, Mr. C. asked, thus favored? No, sir, he is not: his walk in life is humbler, and he does not make so conspicuous a figure on this floor. Had the gentleman proposed to search out the best seed of corn, or any of those fruits of the earth which enter so largely into the comforts of life, there would have been more reason in this proposition; but when only a small portion of the agriculture of the country was proposed to be encouraged at the expense of the rest, he felt bound to protest against it, in behalf of the common farmers—the people who are the stay of the Government in peace, and a strong pillar of defence in war. Why select a single staple to spend the public money upon? If gentlemen engaged in the cultivation of sugar wished this information, Mr. C. suggested that they had better be left to purchase it for themselves, and pay for it out of the rich revenues of their large estates, and not drain the Treasury to advance one interest at the expense of the rest.

Mr. WHITE, of Florida, rose, and said: As I had the honor to introduce the resolution upon which the Committee on Agriculture were instructed to inquire into the expediency of the measure proposed, and now under consideration, it may be considered incumbent on me to say a word or two in its support. The article to which this resolution refers, is one of daily use, and almost universal consumption among all classes of the civilized world. From having been employed formerly as a medicine, it has now become one of the principal objects of consumption and commerce, combining value in use with value in exchange. It is no longer considered a luxury even to the poor, but of indispensable necessity, and general use. The measure proposed, to increase the product either for home consumption, or for foreign exportation, must be viewed as one of no small importance.

The depressed state of the cotton market, and its greatly diminished value, has given an increased interest to all suggestions for the promotion of other articles which promise advantage to the agriculturist, and an accumulation of the national wealth. The subject itself is not interesting alone to that geographical sec-

FEBRUARY, 1830.]

*Diplomatic Expenses.*

[H. OF R.]

tion of the country, in which the sugar-cane has been or may be cultivated; it connects itself with the wants and comforts of every consumer in the United States. The collection of different varieties of the cane found in more northern latitudes, the discovery of new processes in fabrication and manufacture, and the demonstration of the facts by experiment, attested by competent persons, will double the value of twenty millions of acres of land belonging to the United States, within the latitude in which there can be no question the cane will flourish. The expenses attending the cultivation of the cane so far exceed that of any other plant or vegetable, that those who embark in it properly must understand the grounds on which they proceed. Those who wish to extend it farther north cannot confine themselves to the very little information possessed in Louisiana and the West Indies. It is known that most valuable acquisitions to the stock of knowledge possessed by them have been made by the recent experiments in France and Spain on the beet root, and lately on the cane, in Guadaloupe. This subject has not only occupied the attention of the most profound chemists of the present day, but of the most practical political economists of Europe. The various works through which the scattered materials of a good system, or well-digested manual, might be formed, are not accessible to any one planter, and, even if obtained by any one, he has not the means of arranging, translating, and disseminating it for the general benefit.

The labors of De Caseaux and Detrone on the cane, and of Achard and Chaptal on the beet, have not been seen by perhaps a half dozen planters in this country, perhaps not a single one. The plan proposed for collecting in one convenient and accessible form this valuable information, is simple and inexpensive, and within the acknowledged powers of the Government. It has been the practice heretofore by a resolution similar to this, for the collection of facts as to the cultivation of silk, and the still more important instance in which Congress granted a township of land to French emigrants for the cultivation of the olive and vine.

It is not the planter and consumer alone that are interested in extending the cultivation of cane, and manufacture of sugar. The Western States have a new market opened for their provisions, and the Northern and Eastern for engines, kettles, mills, and machinery, from their iron foundries. There is no portion of our Union, and no class of our population, who are not deeply concerned in the promotion of this great and growing article of domestic industry. The French Government have deemed it an object of sufficient magnitude to devote to it a great deal of time and money.

This resolution proposes the collection and dissemination of the improvements made in the fabrication and refinement of sugar; and

another, reported by the same, provides for the collection of all the varieties of the cane, from more northern latitudes. This is also proposed to be effected in an easy and inexpensive manner, through our consuls and commanders of foreign armed vessels from abroad.

There are now three kinds in the United States. The Creole, brought from Madeira; the Otaheite, from the islands of the Pacific Ocean; and the ribbon, from Batavia. If it be true that vegetables, like animals, become acclimated, and put on a thicker covering as they are gradually cultivated farther north, the same species, planted for centuries in a more rigorous climate, may have changed its properties most materially, and might now be transplanted in the same latitude on this continent, when it would require otherwise the same time here to climatize itself. We are said to be indebted to India for the cane, from whence it was carried to Persia and China, and from thence obtained by the Greeks and Romans, who, from want of knowledge of granulation, only used the juice as medicine. The Saracens carried it to Cyprus, Sicily, Spain, Madeira, and the Cape de Verd Islands. There can be no doubt but that a most valuable acquisition may be made to our natural agriculture by the adoption of these resolutions. I saw, only a few days since, in the work of a recent traveller in Peru, the return of an Intendant to the Government, in which it was stated that the sugar-cane in one of the provinces grew eleven months in the year, and ripened five feet high; and from their ignorance of the processes of sugar-making, it was difficult to produce any thing. In our country the cane only grows eight months, and only ripens two feet; and, destitute as we are of a full knowledge of the subject, our production is annually increasing. It was considered an experiment for fifteen years in the commencement of sugar-making in Louisiana. What was experiment then, is experience now. What is now doubt and uncertainty, will be practice and demonstration in a few years to come.

I cannot, for a moment, believe that a measure so simple and beneficial will not receive the concurrent vote of this House.

The question was then taken on agreeing to the resolutions, and decided in the affirmative without a division.

WEDNESDAY, February 10.

#### *Diplomatic Expenses.*

The bill making appropriations for the civil list for the current year being under consideration,

Mr. INGERSOLL said he rose to correct an error to which the debate of yesterday had led, in regard to one head of appropriation. He alluded to the salaries and outfits of foreign Ministers, and the contingent expenses of the missions. It had been yesterday stated by an

honorable member of the Committee of Ways and Means, (Mr. VERPLANCK,) that, although the appropriation now asked for was large, in consequence of the new missions instituted during the recess of Congress, or rather by sending out new men to old missions, yet, that even the sum now required for these purposes did not swell the amount beyond our former appropriations for foreign missions. Indeed, it was said that the money required for our Ministers and diplomatic agents, under the last administration, had been more in some years than is now required. In these statements, he believed the honorable member who made them was wrong, entirely wrong; and he (Mr. I.) would now endeavor to set the matter right. There had not been a year during the preceding four years, that the diplomatic expenses had equalled the sum now asked for. No, sir, not excepting the year of the Panama mission, which had been the means of characterizing the late as a diplomatic administration, by those opposed to it, was there as much required as we are now about to appropriate. The bill proposes to give one hundred and eighty thousand dollars for the salaries and outfits of our diplomatic agents, and for the contingent expenses of the several missions. Let us compare this sum with what we gave in 1826, the first year of the late administration. By a careful examination of the act of that year, he found that, for these purposes, there was appropriated but one hundred and forty-seven thousand five hundred dollars. In 1827, we appropriated for the same objects one hundred and fifty-one thousand dollars. Well, sir, these were large sums, but still falling considerably short of what is now required. But these sums, though appropriated, were not all expended; and when we came to the year 1828, the gentleman then at the head of the State Department informed us that there was on hand an unexpended balance of former appropriations, amounting to one hundred thousand dollars, and he only asked for an additional sum of forty-nine thousand dollars to carry that branch of the service through the year. The next year, 1829, we appropriated by two acts, the one for the first quarter, and the next for the three quarters of the year, in all one hundred and thirty-seven thousand five hundred dollars. The average amount for the four years of the late administration, was one hundred and twenty-one thousand two hundred and fifty dollars for each year, and we are now starting anew, by appropriating one hundred and eighty thousand dollars, to cover the expenses of diplomacy for the current year.

Mr. I. said he did not make these statements with a view of finding fault with the items which we are now considering, but he felt it due to others, as well as himself, to state, in as few words as he could, on which administration the difference of expenditure was chargeable.

Before he resumed his seat, he would say a few words as to the sources from which the

outfits of the new Ministers, during the last summer, had been taken; because, as had been before stated yesterday, these outfits were said to be derived from the diplomatic fund; and we all know that the last Congress declined making any specific appropriations for outfits, nor is there any such thing as a diplomatic fund; he meant a fund by that name. The money, in the absence of a specific appropriation for outfits, was undoubtedly taken by the Executive from the item of contingent expenses. We had heard something about these contingent expenses, and also about the practice of paying outfits from such sources, a year or two ago. The Retrenchment Committee, he believed, had put the seal of condemnation on that practice; at any rate, another committee of the same Congress, the Committee on the Expenditures of the State Department, over which an honorable member over the way, from Tennessee, ably presided, had, in 1833, denied the rights of the Executive to pay diplomatic outfits, unless authorized by a specific appropriation. This, we are told, was the true doctrine then. The able report then drawn up by the committee took the ground that the contingent fund was not subject to the payment of salaries and outfits of Ministers and charges, their compensation being specific subjects of appropriation. The committee called that practice a usurpation of power, if he rightly remembered the term. He would not stop to ask whether that was defensible now, which was usurpation in 1833. His principal object was to correct the errors which had been, as he presumed, inadvertently made, in comparing the sums now asked with what had been given under a former administration; and, having accomplished his object in that particular, he should drop the subject.

Mr. VERPLANCK said he did not intend, yesterday, to make a comparison of the economy of this and the last administration, but had then found himself called upon to defend the committee which reported the bill. He had then unintentionally committed an error in the statement he made yesterday, by not adding to the one hundred and eighty thousand dollars the sum of thirty thousand dollars, when comparing the present appropriation with that of former years. Still, on the showing of the gentleman from Connecticut himself, the present appropriation is defensible, for, compared with that made the year of the Panama mission, it is very much less, and, with that of the preceding year, it is still three or four thousand dollars less. Mr. V. said he did not wish to turn this debate into a party question. The part of the bill containing provisions explains itself—and the cause of the increase is, that at the first year of a new administration, outfits are required which will not be necessary again. But, he said, since it was invited, he would make a relative comparison of the expenditures in this respect, from an estimate he had himself made. Mr. Adams was Secretary of State in

FEBRUARY, 1880.]

*Diplomatic Expenses.*

[H. OF R.]

1825, when he was elected President, and he himself prepared the appropriation bills for the first year of his own administration. After a long series of appropriations for foreign intercourse, balances of appropriation for foreign intercourse had been left, and this advantage he had, besides, with his own political friends abroad; few recalls were necessary. Yet Mr. Adams obtained two hundred and thirteen thousand dollars for the first year of his administration. The year after, and corresponding with this year of the present administration, Congress had granted him for this object the sum of one hundred and eighty-seven thousand five hundred dollars, to which is to be added the appropriation of forty thousand dollars for the Panama mission. How stood the account of what was deemed necessary for the two first years of Mr. Adams's administration? The sum of four hundred and forty-two thousand dollars was deemed proper, and so estimated by the department, for the two first years of that administration. Let us take the two first years of the present administration, and examine what the amount of the corresponding appropriations will be. There was, when the last administration went out, a surplus of contingent funds in hand to a considerable amount. The Secretary of State, with a laudable accuracy, asked for no increase, but said the surplus fund (thirty thousand dollars) was sufficient. Under these circumstances, the sum of one hundred and thirty-seven thousand five hundred dollars was appropriated last year, without any surplus fund. Public reasons—reasons which seemed good to the Executive, and which this was not the place to discuss, induced some recalls to be made, and other Ministers to be appointed in their place. Mr. Brown, besides, voluntarily returned from France, and it was necessary to appoint a successor to him. A full Minister, in consequence of the boundary question, was required in Holland, where a chargé only formerly was required. Under these circumstances, Government now asks for two hundred and ten thousand dollars, which will make an aggregate amount of three hundred and forty-seven thousand dollars for the two first years of General Jackson's administration, while that of the former administration, for the corresponding period, was four hundred and forty-two thousand dollars—the difference in favor of this administration being about one hundred thousand dollars. Whether even all this sum is to be expended, he could not say, although there was good reason to expect that even the whole of it would not be needed. The only information he had on this subject, was derived from the documents which have been transmitted to the House from the Executive within a few days—(the Message in relation to our foreign intercourse,) by which it appeared we were to go back to the good old act of 1810, which is to be in future strictly applied—a law, than which there is none in the statute book more precisely

worded, nor one which had been more loosely construed. Thus, we shall not have any more constructive journeys—constructed messengers. We shall have no more outfits for accidental chargés for a six weeks' mission—no more appropriations of forty thousand dollars for roving Ministers to look for a Congress which was not to be found, unless, perhaps, in the moon, where, according to the old poetical fancy which had recently received the diplomatic sanction of Mr. Adams, "all things lost on earth are to be found."

Mr. INGERSOLL said he had not the most distant idea, when he rose on this subject, to give to the debate what the gentleman from New York (Mr. VERPLANCK) had called a party turn. It was in answer to an inquiry made by the Chairman of the Retrenchment Committee, said Mr. I., that, yesterday, I stated the causes of the increase, for the present year, of the diplomatic expenses of the country. I did this in as unexceptionable a manner as I was capable of doing it. The gentleman from New York followed on the other side, and saw fit to indulge in an unnecessary, and, as I thought, unmerited attack on the expenditures of the late administration. Whatever, therefore, of party has mingled in this discussion, the gentleman may thank himself for. I am acting, and have acted, on the defensive throughout. He now acknowledges that he was in part mistaken, yesterday, in his estimate of the expenses of the late administration, but still insists that the first year of Mr. Adams's was more expensive in this particular, than the first year of the present administration. If the gentleman will turn to the book, and examine for himself, he will find that he is as far out of the way here, as he was in his other statements yesterday. He is altogether mistaken in this matter, or there is no truth in figures. The year 1826 required but about one hundred and forty-seven thousand dollars for the missions, and all of that sum was not expended, but went to help out the expenditures of one of the succeeding years. Again, we are told that during Mr. Monroe's administration, and while the late President was in the Department of State, very large appropriations were made, the unexpended balances of which went to eke out the Ministers' salaries and perquisites, under the last administration. Surely he could not have been aware where this assertion was to lead him, or he would have paused much before he made it. Large diplomatic appropriations under Mr. Monroe, and through the influence of his Secretary of State! Why, sir, the largest appropriation made during that period was in 1825, when the new Governments on our own continent had been acknowledged independent; in consequence of which, the diplomatic corps was about doubled, and even then the amount appropriated for foreign missions was not over one hundred and seventy-two thousand dollars; still less, it will be observed, than you are now asking for by the bill on your table. Let us

see how the other years preceding ranged, in these expenses, which we have been told were so enormous. In 1824, there was appropriated one hundred and forty-nine thousand dollars—not yet up to the mark of the present year. In 1823, only seventy-four thousand dollars were appropriated, not half of what is now required; and in 1822, there was appropriated eighty-three thousand dollars; that is, nearly one hundred thousand less than is now necessary to pay the diplomatic corps. Will it be said, in the face of these sums, that there was an extravagance in Mr. Monroe, chargeable to his Secretary of State, when not a year can be found in which these expenses have run up to their present amount? The gentleman from New York has indeed said, that it became necessary to reform some of the Ministers during the recess of Congress, and hence our present heavy expense. We once were taught to believe that reform and retrenchment were to go hand in hand; but they are now, it would seem, to be separated, and the first year of the reign of reform shows us, instead of a retrenchment, an increase which would of itself have broken down the administration which went before it. And not only an increase of this patronage, but even the doctrine of specific appropriations is getting to be rather obsolete, and outfits not provided for by the appropriation acts are now taken from the diplomatic fund. Let it not be said that I complain of this—the Executive has an undoubted right to do as has been done; but I do complain that gentlemen, when they get in, should so soon forget what was their favorite doctrine when they were out.

Mr. BUCHANAN said he had not expected that the House would have entered into a party debate upon this question, and he trusted it would not now seriously engage in such a discussion. The two gentlemen who had addressed the House upon different sides of the question, appeared to him to have taken but a narrow view of the subject. It was decidedly his opinion that, in our intercourse with foreign nations, we should pursue a liberal and wise, rather than a narrow and short-sighted policy. It was the interest and the duty of this country to cherish the good opinion of foreign nations; and in our intercourse with them, if we acted upon narrow principles, we might find that, in realizing a small gain, the country might sustain a heavy loss. We should view this subject as statesmen, and never hesitate to provide the means necessary to enable the Executive to sustain both the character and the cause of this country, in intercourse with other nations. Mr. B. said he was, therefore, astonished to hear gentlemen comparing the relative cost of our foreign intercourse in different years, and under different administrations, as if there were no other question to be considered, but which administration had spent the least money.

Sir, said Mr. B., I was one of those who con-

demned the last administration, not so much on account of the amount of its expenditures in our foreign intercourse, as because, in practice, it repealed the law of 1810. A practice had grown up within the last twenty years, which at least violated both the letter and the spirit of that act. One precedent in violation of law was established, which gave birth to many others. At last this act was so wholly disregarded by the last administration, that they suffered a Minister, upon leaving a foreign country, to convert his secretary of legation into a *chargé des affaires*, and as such paid a full salary and outfit, although he returned home a very short time after the Minister. This was not only without law, but expressly against law. He had not the least right to such an allowance. It was not a question whether the contingent fund ought to have been resorted to for his payment; but it was a case in which the President had no right, under the law, to allow him one cent, out of any fund, beyond his salary as secretary of legation. Mr. B. was willing that those matters should now rest in oblivion, and he would never voluntarily call them forth to the light. He had opposed the practice of the last administration, not because they had paid just demands out of the contingent fund, but because they had made donations to individuals in express violation of the existing laws.

Mr. B. said, the true reason why the appropriation necessary for our foreign intercourse was greater the present than it had been the past year, was, that several of our Ministers had been recalled, and others had been appointed in their stead, whom it was necessary to provide with outfits. Would any gentleman question the right of the Executive to pursue this course? For this conduct he was answerable to no tribunal but that of the American people. The appointment of foreign Ministers was peculiarly within the province of the Executive. The Constitution and laws of the United States had reposed in him this discretion; and it must be an extreme case indeed in which the House of Representatives ought to withhold the necessary appropriation. He presumed no gentleman in the House would say that such a case now existed. He had risen to say thus much; and he hoped to see the appropriation made without further discussion.

Mr. EVERETT, of Massachusetts, said that he agreed with the gentleman from Pennsylvania, who had just taken his seat, as to the cause of the increase in the appropriation. That gentleman had stated it to be the recall of several of the foreign Ministers, and the outfits of their successors; and it was evident, from the comparison of the bill of this year with the appropriation law of the last, that such was the fact. He also agreed with the gentleman from Pennsylvania, that the recall and appointment of Ministers was a matter of Executive discretion; and that it was only in an extreme case that the House would be justifiable in interposing to withhold an appropriation for the outfit of a

FEBRUARY, 1830.]

*Diplomatic Expenses.*

[H. OF R.]

Minister thus appointed. But Mr. E. begged to recall to the recollection of the House the manner in which this debate arose. The gentleman from Kentucky (Mr. WICKLIFFE) had put the question to the chairman of the Committee of Ways and Means, why the appropriation for the diplomatic service of the year amounted to one hundred and eighty thousand dollars, while, the last year, it was but one hundred and thirty-seven thousand dollars? To this inquiry the chairman of the Committee of Ways and Means had replied, that there had been, previous to the last year, an accumulation of unexpended balances of former appropriations, which had rendered it necessary to appropriate less for 1829; but that these surpluses being now all expended, a larger sum was required for this year. With great deference to the source from which this statement proceeded, Mr. E. could not agree to its correctness. He did not find, in looking at the estimate from the Department of State for 1829, that there was any such surplus under this head of appropriation.

[Here Mr. E. gave way to an explanation from Mr. McDUFFIE.]

Mr. McDUFFIE rose in explanation. He said that it was far from his intention to make any party allusions, or any observations which could possibly be construed into such, in relation to that appropriation. He referred, on this point, to the explanation made by him on the preceding day, in answer to the member from Connecticut, (Mr. INGERSOLL,) and concluded by stating that he trusted he should not be considered an authority for the debate which had taken place.

Mr. EVERETT resumed. He said that the gentleman's explanation was in accordance with his own view of the case; and he was about himself immediately to state that the surplus alluded to was in a different fund, for which no appropriation at all was made in 1829; and that, consequently, the increase of forty thousand dollars in the diplomatic service of the present year, over the last, was not owing to any such surplus being added to the appropriation of 1829. It was an increase of expenditure, owing, as the gentleman from Pennsylvania stated, to the recall of the foreign Ministers, and the outfits of their successors. Supposing this matter to be now understood all around the House, he should say no more about it. He must, however, dwell a moment on another point, connected with this appropriation, in which, after what had been said, he need not disclaim being a volunteer. These outfits, to the amount of over forty thousand dollars, have been paid without any specific appropriation. On the contrary, a gentleman from Georgia, (Mr. WILDE,) last winter, proposed, in Committee of the Whole, to make an appropriation for the outfits of Ministers who might be appointed; and the committee declined making such an appropriation. They passed the bill as they found it, with specific

appropriations for certain designated salaries and outfits, with an estimated addition for contingencies, he believed, of twenty thousand dollars. This looked rather, when considered in connection with the refusal of the committee just alluded to, like excluding all outfits not provided for by the bill. And yet, notwithstanding this, forty thousand dollars in outfits, for which no appropriation had been made, have been paid during the last summer. Mr. E. did not mention this as criminating the present administration, but as vindicating the past. It had been asserted and reiterated, here and elsewhere, that the late administration had improperly paid outfits out of the contingent fund, and transferred to one object what was specifically appropriated to another. Now here we have forty thousand dollars expended in outfits, without any specific appropriation; although two outfits, if he recollected, were specified in the act of the last year. From what fund the money had been taken, he could hardly tell. That part of the estimate was not very clear. There is no such thing as a diplomatic fund known to the appropriation law. The sum now asked for appears to be asked as a repayment of so much taken from other items. Of this, Mr. E. was not disposed to complain; but he hoped gentlemen would now feel how unjustly the late administration had been condemned for a course so soon adopted by the present, and which must, of necessity, be adopted by any administration.

Mr. McDUFFIE said he had never denied that outfits, under such circumstances, were to be paid out of the contingent fund.

Mr. EVERETT replied, that he did not maintain that the gentleman from South Carolina individually had held this doctrine; but it had been distinctly laid down in the reports of two committees of the House, at the last Congress—the Committee on the Expenditures of the Department of State, and the Retrenchment Committee. The latter committee had recommended the abolition of the fund for the contingent expenses of the foreign missions, on the ground that it enabled the Executive, at his own discretion, to augment the allowances to the foreign Ministers.

Mr. CAMBRELENG asked if the gentleman from Massachusetts was not mistaken. It was the secret service money, and not the contingent fund, which the Committee on Retrenchment proposed to suppress. Was not the gentleman confounding one subject with the other?

Mr. EVERETT. I am not mistaken. The Committee on Retrenchment proposed to abolish the fund appropriated for the contingent expenses of all the missions abroad, as the gentleman will find by turning to their report.

Mr. NORRIS said, that, in the whole course of his legislative life, he had never thought it necessary to build up a political reputation, by advocating a false system of economy. He should vote for the bill reported by the distinguished statesman at the head of the Commit-



tee of Ways and Means. He (Mr. N.) had not come here to condemn the late administration, nor to applaud the present one, whether right or wrong. But he must say, that the illustrious individual who had been elected to the chair of State, was, he was convinced, actuated in the administration of the affairs of Government by the best and purest motives. He believed the President to be a bold and honest man; and he was firmly convinced that, whilst he was surrounded by his present wise and patriotic advisers, the liberties of the country would be secure.

The bill was then ordered to be engrossed for a third reading.

TUESDAY, February 16.

*The Judiciary Bill.*

The House again resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair, and took up the Judiciary bill.

Mr. HUNTINGTON said: This bill operates upon a department of the Government, in comparison with which every other department is powerless. It affects a tribunal which hears and adjudicates not only upon the conflicting claims of private citizens, but one which, while it opens the book of the constitution, and points sovereignty itself to the clause, "Thus far mayest thou come, but no farther"—holds in its hand the chain which confines it within the prescribed limits. Well, then, did the honorable member from Pennsylvania say, the subject was important. The remark was worthy of the subject, and the source from which it proceeded.

I listened with much attention, and, I will add, with much pleasure, too, (as I always do when the honorable member from Pennsylvania favors us with his remarks on any subject,) to the very able and lucid statement which he made of the reasons which induced the committee, of which he is the organ, to present this bill for our consideration. I noticed how, with the hand of a master, he drew the great outlines, the leading features of our judicial system, as it has existed from the first organization of the Government to the present time: I heard him point out the duties, the responsibilities, and the powers of the Supreme Court; the benefits which had followed the adoption of the present system; the evils which would result from its abandonment; and the necessity of its extension to the new States. He will do me the justice to believe me sincere, when I say I heard him with a desire to be convinced that my objections to this bill were groundless; but he will pardon me for saying, that although I was instructed by his learning, and gratified with the manner in which it was communicated, I still retain the same opinion as when this discussion commenced; and that is, that this bill ought not to become a law. The reasons for entertaining this opinion I am now to submit to the committee.

To arrive at a correct result as to the leading feature of the bill, that which proposes to add two to the present number of the justices of the Supreme Court, an answer to two inquiries into which the subject very naturally and obviously divides itself, seems necessary.

Are there evils attending the practical operations of our judicial system, as limited and confined by existing regulations, which require any remedy?

If there are, does this bill furnish both an adequate one, and the best which, under all the circumstances, can be adopted?

The evils complained of, and for which this bill is intended to provide, exist in one form, and are of one character, in the States of Indiana, Illinois, Mississippi, Missouri, Alabama, and Louisiana; and in another form, and are of another character, in the States of Kentucky, Tennessee, and Ohio.

To the former, the Circuit Court system is not extended at all; and the complaint is, not that their judicial business is not finished, but that it is not as well done as it would be were a Justice of the Supreme Court assigned to them. To the latter, the system is nominally extended; but, from a variety and combination of causes, the benefits of it are not realized: their complaint is, not that their judicial business is not well done, but that the unavoidable delay in completing it is tantamount to a denial of justice.

The source from whence these complaints proceed, and the manner in which they have been presented to us, claim the most respectful consideration; and, if well founded, however we may differ as to the mode of redressing them, I trust we shall not differ as to the extent of their rights, or of our duties. I do not intend to trespass long upon the patience of the committee by the remarks which I shall make upon this branch of the subject; for, with the views which I entertain regarding the remedy proposed, it might safely be admitted that the evils complained of are as extensive as has been supposed. But as this bill is professedly framed to supply the wants, the absolute necessities, and to sustain the just rights of the States, to which I have referred; as no disposition has been manifested by any member to increase the number of the Justices of the Supreme Court, except for these reasons, it may be well briefly to examine and ascertain, if practicable, how far the complaints which have been made are well founded; what real necessity does exist for the increase. And if I do not very much mistake, it will be found that the state of judicial business in the courts of the United States, in these States, will not justify, nor does it require, any such addition—at least, from the information now before the committee, the necessity adverted to is not shown to exist.

I begin with the six younger States. The honorable chairman of the Judiciary Committee (Mr. BUCHANAN) has informed the commit-

FEBRUARY, 1880.]

*The Judiciary Bill.*

[H. OF R.]

tee that the parental care of the Government, so far as it regards the equal and due administration of justice in the federal courts, is withdrawn from them.

Of this they complain, because it denies to them an equality of rights and privileges with the other States, and thus mortifies what is sometimes called State pride, and excites State jealousy.

I have no disposition to deny the proposition, that, by the terms of admission, the new States are placed on an entire equality with the old States as to rights and duties; and if I had the disposition, I have not the power to do it, consistently either with the letter or spirit of the acts of Congress authorizing their admission. Nor, in what I am now about to say, shall I be justly obnoxious to the imputation of entertaining unkind feelings towards the new States. Coming, as I do, from one of the old States of the Union, and from a State from which the tide of emigration has heretofore rolled with a rapidity and constancy which has not entirely ceased, I have many reasons to feel and cherish all that kindness and respect towards the younger sisters of the confederacy, as they were very appropriately called by the honorable member from Pennsylvania, (Mr. BUCHANAN,) which such an endeared relation should excite. Many of the sons of Connecticut are now respectable citizens of those States; some of them are distinguished members from those States of the National Legislature. I say, therefore, with frankness and with pleasure, that I would withhold from them no one right—I would deprive them of no one privilege, which, under similar circumstances, is granted to the older States. I may, however, still be permitted to say, that this principle of equality, so far as it relates to the administration of justice in the federal courts, has never been the standard by which the judicial system of the nation has been regulated, not even in the old States of the Union. Upon the principle of entire equality, each State should have a Judge of the Supreme Court; and more than one, if necessary, to enable its judicial business in the courts of the United States to be finished with the same facility and economy as in the other States.

But our judicial system does not now proceed on any such assumed basis. Why are parts of the wealthy and powerful States of New York, Pennsylvania, and Virginia, cut off from the benefits of the present system? Why are they deprived of the talents and learning of a Judge of the Supreme Court? Is not this humiliating to their pride—and yet, to obviate it, the number of the judges must still further be increased. Even the bill under discussion deprives a part of the State of Louisiana, and a part of the State of Alabama, of the same benefits. If we look at the progress of our legislation on this subject, it will be obvious that no such principle as that of State pride, feeling, jealousy, ever entered into the merits

of the system. Kentucky was admitted into the Union fifteen years before the present system was extended to her. Tennessee eleven years, and Ohio four years. I need not, however, press these considerations, for the honorable member from Pennsylvania, (Mr. BUCHANAN,) with his usual frankness and candor, admitted that the admission of a State into the Union, though thereby placed "on an equal footing with the original States, in all respects whatever," did not confer upon her the right to claim that the Circuit Court system should be extended to her immediately, and that no obligation was imposed upon Congress so to extend it, until the wants of the State required it, and the circumstances of the country permitted it to be done. I am satisfied with this standard of our duty, and I ask the committee to apply it to the present situation of the six new States. Its wants, so far as they apply to this subject, are to be ascertained by referring to the extent and amount of its business in the federal courts. I was surprised that the committee were furnished with no statement regarding it. I do not know, nor have I heard, that it is such as to require that the judicial system should be extended to them; and, being ignorant of their wants, can I vote for a bill which has been framed to supply them? If I were allowed to hazard a conjecture, it would be that the judicial business of these States, in the courts of the United States, was very limited in amount. Their local situation, and the habits and pursuits of their inhabitants, (with the exception of the commercial cities of New Orleans and Mobile,) would seem to be such as not to produce much litigation in these courts. No memorial has been presented from any one of these States, at least none, within my recollection, stating their wants, and soliciting relief.

Does this bill furnish both an adequate remedy for existing evils, and the best which under all circumstances can be adopted?

In my judgment, no worse remedy can be adopted than that which increases the number of the Justices of the Supreme Court. I will briefly state the reasons for this opinion.

It tends to divide the responsibility of the judges, and thus diminishes the weight of it, which each individual judge should feel. It is a very common observation, but not the less correct, indeed it has almost the force of a truism, that in proportion as the number of agents employed to perform any service is increased beyond that necessary for its accomplishment, is the responsibility of each lessened. This springs from a principle of human nature too obvious to need illustration. I am aware that it is difficult to fix the precise limit where individual responsibility will be materially impaired by the increased number of agents, but I think it not difficult to perceive that it must be impaired, when, in the court of dernier resort, being purely a judicial tribunal, that number is nine, though there is no magic, as was said by

the honorable member from Tennessee, (Mr. POLK,) in the number nine. We must resort to the practice of other nations, and to the different States in the Union, to guide us to a correct result on this point. In England, with the exception of the House of Lords, and, in this country, of the Supreme Court of Errors of the State of New York, the court of dernier resort is composed of a less number than that proposed in this bill. With regard to the court in England, and that in New York, which are exceptions, they are not merely judicial tribunals, but possess and exercise legislative powers, and there is no analogy between them and the supreme appellate judicial tribunal of this country. The House of Lords, sitting as a court, review very few of the numerous cases, either in law or equity, which are yearly adjudicated by the court of chancery and the courts of King's Bench and Common Pleas. I would appeal to many gentlemen in this House, whose observations have enabled them to form correct opinions on this subject, whether a smaller number than that proposed by this bill has not conduced to a more perfect responsibility of each member of the court, than would probably have existed had it been increased. I appeal particularly to one gentleman, whom I see in his place, (Mr. SPENCER, of New York,) and whom I hope the committee will have the pleasure to hear, whose judicial character to know, is to respect and admire. I ask him to say whether, from the observations which a long and distinguished judicial life has enabled him to make, the responsibility of each judge is not to an extent, by no means inconsiderable, greater or less, in proportion to the number of judges who compose the court. The honorable member from Pennsylvania (Mr. BUCHANAN) was pleased to say, that those who think the number proposed in this bill too large, confine their views too much to the several States; whereas, the true statesman looks beyond the confines of his own State, and embraces within his vision this extended republic, consisting of twenty-four States, producing a great mass of business requiring judicial investigation. I make no professions to the character of a statesman. My pursuits in life have been professional merely; but I am yet to learn, that because our country is great and extended, because much judicial business is to be done in its courts, that this affects the argument which I am now urging, that an increase of numbers impairs individual responsibility. It may, on that account, require the adoption of a different system from the existing one, but in no degree does it weaken the force of the suggestions which I have made in relation to the responsibility of the judges.

An increase of the number of judges tends to produce less concentration of action, (if I may be allowed the expression,) less union of action in the court, than would otherwise exist, and as would be desirable. It is certainly important that each judge should, for himself,

examine with care and attention every case, every matter of law and fact connected with it, in which he is called to pronounce an opinion. This is oftentimes a work of time and of great labor. Increase the number, and may it not be feared that it will tend to the allotment of different cases to different judges, not merely to draw up the opinion, (which is not only proper, but necessary,) but to examine the cases; and thus, instead of bringing to the aid of the litigant parties the individual learning and industry of each, the decision will in fact rest, as it will be pronounced, on the investigation of a single judge? May it not be feared that either this result will follow, or that the business of the court cannot be seasonably finished with a due regard to the rights of the parties, or that much of the time of the court will be consumed in endless discussions, especially in cases where there is any considerable complication of facts, in perhaps oftentimes fruitless endeavors to reconcile jarring opinions and different views which may be taken of the same subject? The honorable member from Pennsylvania (Mr. BUCHANAN) admitted, that if the judges had no circuit duties to perform, there would be danger that the consequences to which I have alluded would follow; that there would be danger that some of them would be, as he expressed it, aye or no judges. I am at a loss to perceive how the discharge of these circuit duties would destroy this characteristic. A judge, who would be an aye or no judge on the bench of an appellate tribunal, is in great danger of being less than that at the circuit.

An increase of the number of judges will tend to impair public confidence in the court. Next in importance to an upright administration of justice, is the belief that it is so administered. Indeed, it is almost as essential to the real utility of a court, that its decisions should be deemed to emanate (to use a common expression) from a pure heart and a sound head, as that such should, in fact, be their characteristics. Let the community once believe, whether from causes well or ill founded, that the decisions of this judicial tribunal are not entitled to their confidence, and the salutary effects which would otherwise follow from the exercise of their powers would be neither seen nor felt. Am I asked how this confidence of the public may be impaired by increasing the number of the court? I answer, in one or both of two ways.

By creating a belief that the court partakes more of the character of a popular assembly than of a mere judicial tribunal; that appointments are to be made to it with reference to some supposed ratio of representation in the several States; that each portion of the Union is to be regarded, whenever a vacancy occurs, or new judges are to be added, as entitled, from its wealth, population, or political importance, to furnish the incumbent; indeed, that this of itself constitutes a reason for the increase of the court; that sectional views are to be con-

FEBRUARY, 1830.]

*The Judiciary Bill.*

[H. OF R.]

sulted, sectional importance to be considered; that an increase of the number is necessary to advance the particular interests of particular parts of the country. I need not detain the committee to point out the deleterious consequences resulting from such an impression upon the public mind. It is very obvious the court, under such circumstances, would cease to possess much of the confidence of the people.

If the number of judges be increased, in conformity with the principle of the present bill, as the wants of the country may hereafter require, may it not be feared that it will be impossible that the business of the Supreme Court should be done with that despatch which a due regard to the right of suitors requires. Do our friends at the West tell us that delay is a denial of justice to them? How will it be with parties attending the Supreme Court in this capitol? Will there be no delay as to them? I have been informed that now, with the increased term of the court, two years elapse, on an average, before a case, after it is entered on the docket, is determined. The clerk has furnished me with a memorandum, from which it appears that on the 8th of January, 1827, there were one hundred and sixty cases on the docket. At the January term of the same year, seventy-seven cases were decided. On the 14th of January, 1828, there were one hundred and thirty-one cases on the docket. At the term of that year eighty-eight cases were decided. On the 12th of January, 1829, there were one hundred and nineteen cases on the docket. At the term of that year fifty-three cases were decided. On the 15th of February, 1830, there were one hundred and thirty-three cases on the docket. In 1827, the court were in session sixty-eight days. In 1828, sixty-three days. In 1829, sixty-seven days. And how will the period of delay be extended, as the business of the court increases with the increase of the business of this growing country? This delay will not be attributable to the court. The judges are in no fault. It is to be attributed to the system under which they are placed. They accomplish all which the most devoted and untiring industry, and incessant application to the discharge of their duties, can accomplish. But they are obliged to adjourn before all the causes are heard and determined, to enable them to hold the circuit courts. Must not, then, the present system hereafter be abandoned, or the docket of the Supreme Court be filled with a number of litigated cases immeasurably almost exceeding that of any of the Western States which now complain of it as amounting to a denial of justice to them? Why, sir, it may be feared that the proverbial delays of the English court of chancery will not exceed the necessary delays which hereafter will attend parties litigating in the Supreme Court, if the present system be then persevered in. The hand of death will remove them before their controversies can be decided. The delay and consequent expense will con-

sume the whole of what may eventually be awarded to them. This would be not merely a delay, it would be a mockery of justice.

I have thus, as briefly as I could, adverted to the evils which in my judgment would follow, or which might follow, from the adoption of the principle, that new judges are to be created as often as the wants of the new States require them. Were it in order, as I am aware it strictly is not, to advert to an amendment which has been printed and laid on our tables, and which an honorable member from Kentucky (Mr. DANIEL) proposes to offer hereafter to this bill, which provides that a majority of all the Justices of the Supreme Court, authorized by law to be appointed and commissioned, shall concur in deciding against the validity of a statute of, or an authority exercised under, any State, in every case in the Supreme Court, where is drawn in question the validity of such statute of, or authority exercised under, any State, on the ground of a repugnance thereof to the Constitution, treaties, or laws of the United States, and, unless such majority concur, the decisions of the court shall be entered as in favor of their validity, and which further provides that no district or circuit court shall have jurisdiction, or take cognizance of any suit, matter, or cause of action, (other than causes of admiralty and maritime jurisdiction,) either at common law or in equity, where the cause of action, matter, or suit arises out of, and depends solely upon, the laws of any State, and in which no statute of, or authority exercised under, any State, is drawn in question, on the ground of a repugnance thereof to the Constitution, treaties, or laws of the United States; and if I could think it possible that this amendment would meet with the favor of the committee, I should think the bill so amended much worse than it now is; for then the tendency of the system would perhaps more obviously be to unsettle and put at hazard judicial decisions on great questions which take hold of the vital interests of this nation, to set afloat precedents regarding constitutional law, made after the fullest discussion and the most mature deliberation, and acquiesced in by every department of the Government, and by the great body of our citizens. But this is not the time to discuss the principles involved in this amendment. I abstain at present from any further remarks upon it.

Mr. ELLSWORTH said: I prefer altogether the system of judicial organization presented to the Senate in the year 1819, and which, as I understand, received the almost unanimous concurrence of that body, viz., making the Supreme Court of the United States an appellate court, and creating circuit courts to be filled with other judges. This is the true system for this country, after all that has or can be said; and one which will ere long be established; and much sooner, too, I am apt to think, than some gentlemen imagine.

Sir, the bill upon your table is one of the

deepest and highest interest to this country. Few can be more so. It will give character to the country. It will make our law. It is an act for life. There will be no escape from it. This day we are about to establish the judicial character of the Government for years to come, if not forever. Many who now hear me will live long enough to see the fatal effects of this bill, should Congress be so unwise as to pass it into a law. I hardly dare to speak openly my apprehensions from the adoption of this bill—this accumulation of judges in the Supreme Court, to provide judges for the circuits. I hope the committee will pause, and pause a long while, before they take a step so ominous to the ultimate destiny of the country.

Permit me to say, sir, that, in establishing or extending a judicial system for this country, we ought to aim at two things, uniformity and permanence. The system should be adapted to the wants of the country; it should, if possible, carry to every part of the Union an equal participation in the judicial power of the constitution, and be capable of extension, according to the growth and exigencies of this enterprising, active, and extending republic. It is a fatal objection to any system, that it is partial, or that it must be exchanged for another. A change of system is a change of law. It is a change of judges. It introduces endless and ruinous confusion; and that, too, where certainty and harmony should prevail. If we would have uniformity in the exposition of the law, we must have a uniform and permanent system in its administration. Let us now look after such a system. It may be found without difficulty. But let us avoid as a calamity this argumentation of judges in the Supreme Court, until it is broken down by its weight, and stripped of every thing which commends it to the people.

There are, essentially, but two plans brought before the committee by the bill or the amendments proposed; one is, to leave the Supreme Court as an appellate court, and create circuit judges for circuit court duties; and the other is, to enlarge the Supreme Court as far as it is necessary to have judges to ride the circuits; and, I suppose, to add occasionally a judge or two to the Supreme Bench, just as they may be wanted on new circuits. I ask the serious attention of gentlemen to the principle of these plans or systems. Any plan can be filled up in detail, if we can but settle upon it.

I shall not deny but that, as far as practicable, we are bound to give to every part of the country an equal participation in the judicial power of the constitution. The friends of this bill set out with this position; and I shall not deny its truth, though I shall show that even they do not act up to it; nor can they upon the system proposed in the bill; and herein is one of its defects. There is a system, however, which will carry into effect this principle; but it is not the system of this bill.

Every wise man will concede to me, that nothing should be done which is calculated to

subvert the Supreme Court. Nothing should be attempted which will seriously jeopardize its existence. Whatever feelings may have existed, or may now exist, in any parts of the Union, in consequence of the views entertained by our judges of the powers of the constitution, or of determinations made by them, none will deny that the judicial power is one of the noblest and firmest pillars of our national fabric; and that when its supreme organ comes (if it ever shall) to want efficiency, we shall then have great cause to be solicitous for our dearest interests. I do not hesitate to declare that the judicial power of the constitution is the great regulator, the sheet anchor, the final hope of this Government. Who is not admonished of the inestimable importance of preserving to the court all its wisdom and efficiency, by the deep and diverse interests represented upon this floor of our national council, where conflicting sectional interests and claims are putting to the severest, if not fatal test, the very elements of our constitution?

I shall not stop here to pronounce a eulogium upon the distinguished men who now fill the court. My business is rather to preserve the court than to praise it, and to preserve it in that character and condition which itself constitutes the highest eulogy upon the judges who preside in it.

The first objection I have to urge against the system proposed in this bill is, that it is not even now adapted to the country, and must and will be finally abandoned. It is not uniform throughout the country now, and is becoming less so every year; while, at no very remote period, the whole will be given up for the circuit system. It is wanting in the two particulars which ought to be kept in view in establishing a judicial system. Most of the friends of this bill admit that the Supreme Court, with its seven judges, has come to its perfect and full maturity as a Supreme Court, and that they would not accumulate judges in it, but that they are wanted for the duties of the circuits. Sir, I conjure gentlemen to stop and consider what they are about doing—crowding judges into the court that holds the destinies of the country in its hands, that we may have the necessary circuit judges. And where will gentlemen stop? They add three now. It will be easier to add two, and then one hereafter, just according to the extension and growth of the country. We shall have a town meeting rather than a court. No, sir, we must stop where we are. If the Supreme Court is perfect, as it now is, let us leave it to fulfil its high destinies, and not tamper with it, until we rob it of public confidence, and are compelled to abandon it as tumultuous and inefficient. I will never consent to a measure of temporary relief which jeopardizes the structure of the judiciary. We are now called upon to choose the true system; nor need we delay one moment.

I have no belief that the court can be made better by increasing the number of judges.

FEBRUARY, 1830.]

*The Judiciary Bill.*

[H. OF R.]

Seven is enough, if not too many. I will not, on this part of the subject, detain the committee by examining minutely the reasons of the consequences which must inevitably follow in cumbering the Supreme Court. I appeal to the observation and experience of all who hear me, for the truth of what I now say. The court will become unwieldy, dilatory, less uniform, less efficient; the judges will feel less personal responsibility, and they will often be divided in opinion. I beg gentlemen to weigh these considerations, and give them their due influence. Lord Mansfield, after he had been the chief justice of King's bench thirteen years, in giving his opinion in a case in which one of the judges differed from the other three, expressed his regret that the court were not united, and said that it was the first instance of a difference among the judges since he had been on the bench. What has been the effect of such unanimity in the English courts? The great commercial principles of that people have been settled once, forever. Place nine or ten judges upon the King's bench, and what think you would be the unanimity or effect of its decisions. Is it not a subject of regret, that the appellate tribunals of the country so often present jarring opinions and discordant views, the result of a numerous bench? There cannot be ordinarily mature consultation where there is a multitude of judges. Where do the friends of this bill find any examples to sustain their views? I stop not to speak of the House of Lords, nor of the Senate of the State of New York. Neither of them, in point of judicial character, are worthy of imitation or praise. They are no more competent to decide questions of law, than is this House, in which there is as much judicial talent as in either of them. But I fear we should make a sorry figure with the abstruse and complicated principles which undergo an examination in the other part of this capitol. The highest court of law and equity in England consists of from one to four judges. There are four on the King's bench, four in the common pleas, four in exchequer, one in the court of equity, and one in the court of admiralty. Who has not heard of the wisdom and the fame of her lord chancellors, whose jurisdiction and power are immense? Of the enlightened administration of her admiralty and other courts? What would be thought of a proposition in Parliament to encumber those courts with ten judges? And, sir, what do we find in our own country to recommend this bill? Massachusetts has but four judges, New York three, Pennsylvania five; and these are among the largest and most commercial States in the Union. The idea has been gaining ground in this country for a few years past, that our supreme judicatories should consist of a few, but able men.

WEDNESDAY, February 17.

*The Hornet, Sloop of War.*

The House then proceeded to the consideration of the following bill, which was the special order of the day for this day:

*"Be it enacted, &c.* That the widows, if any such there be, and, in case there be no widow, the child or children; and if there be no child, then the parent or parents; and if there be no parent, then the brothers and sisters of the officers, seamen, and marines who were in the service of the United States, and lost in the United States sloop of war *Hornet*, shall be entitled to, and receive, out of any money in the Treasury not otherwise appropriated, a sum equal to six months' pay of their respective deceased relatives, aforesaid, in addition to the pay due to the said deceased on the first day of January, one thousand eight hundred and thirty, up to which day the arrears of pay due the deceased shall be allowed and paid by the accounting officers of the Navy Department."

On motion of Mr. DORSEY, the bill was amended so as to conform to the date of the supposed loss of the *Hornet*, (10th September.)

Mr. SPEIGHT, of North Carolina, was not opposed to the main object of the bill, as far as concerned the widows and children of the officers and crew of the *Hornet*; but he was opposed to going beyond that line, to their parents and brothers and sisters. This, he thought, was extending the principle further than was justifiable.

Mr. DORSEY spoke in support of the bill, showing it to be sustained by precedents in like cases, and especially in the case of the *Epervier*, from the act passed in which case, with the exception of the name of the vessel, this bill had been literally copied. Mr. D. expatiated on the favor which the navy had won for itself in the glorious results of the late war, in which it had fought itself into the affections of the American people, under which influence the sort of provision proposed in this bill had become a part of the settled policy of the country. Of the well-founded objections to the establishment of a pension system he was well aware. But they would not apply in any manner to this bill, which must be considered rather in the light of an expression of national sympathy, and of condolence with the bereaved, than in any other; for it could not enter into the mind of any man, that the provision contained in this bill was to be considered as any thing like a compensation for the afflicting bereavement sustained by the relatives of those who had thus unfortunately perished.

The motion of Mr. SPEIGHT was then decided in the negative; and the committee rose, and reported the bill; and it was ordered to be engrossed, and read a third time to-morrow.

*The Judiciary.*

The House then resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair, and resumed the consideration of the bill to extend the judiciary system.

Mr. CRAWFORD said: It will be conceded that the subject is one of extreme delicacy and difficulty. In all countries, it occupies the anxious

thoughts of those who are charged with the public interests. When, therefore, a plan has been happily laid in our own land, which, in its execution, commands the public confidence, and so ensures obedience to its decrees, will prudence, will the careful watchfulness that belongs to our stations, allow us to leave the road we have found so smooth, and fragrant from the flowers that bloomed upon its sides, and to enter upon an unbeaten way that may lead us into miry and swampy grounds? This tribunal, like every constituted authority of these United States, finds its strongest, its enduring foundation in the belief that it is enlightened and of the purest integrity—it is armed with power to enforce its mandates, but its best authority is the regard I have mentioned; and, if it shall ever happen that a different estimate will be made of its decisions from that which now prevails, it and our other institutions will soon sink together.

Let us not then put to hazard this rich fruit of our noble form of government—it has all the raciness of the soil on which it grew, and all the mellowness that the brightest and strongest intellectual rays, steadily beaming upon it, could produce. The Supreme Court is ripe in its fame and in its usefulness—it will never be greater than it is. I beseech the committee to take no step that may, by possibility, relax its present hold upon public esteem, founded on the best and strongest reasons. The Supreme Court is known as it is now constituted—as such, it is regarded to be wise, learned, and honest. It should not be lightly changed—it should be looked on as so far permanent, that while the individuals enjoying its honors come and go, the system remains the same, at least so long as it may be found to answer the end designated at its formation—make it not, by an augmentation of its members, less responsible, or less effective.

I do not like an increase of the judges for many other reasons; among the most important of which is the consideration that it will have a tendency to destroy the confederate character of the court. This was deemed a most material quality by those who framed the constitution; for we find that, by the law of 1789, in enacting which many of those who were in the constitution-convention took a part, the judges of the Supreme Court were appointed indifferently from every quarter of the country, and were strictly circuit judges, that is, itinerant, and holding courts as might be arranged by themselves—indeed, I think the act contemplated alteration. The reasons for my preference of this plan I will submit hereafter; at present I wish to contrast it with the representative system—representative not, says my honorable colleague and friend, (Mr. BUCHANAN,) of local partialities, sectional feelings, and interests, but of local intelligence. Sir, the purpose is fair; but if the end be obtained, it will not be obtained singly. The book of human nature tells us on every page that man, how

pure soever his integrity, however clear and strong his mental endowment, how elevated soever his station or responsible his duties, if we except some rare beings, whom surpassing excellence (if it may be said without irreverence) brings into some slight resemblance to Divinity, is imbued with the prejudices and passions and frailties of his abode. If from every part of this wide empire you bring a judge, or make it an indispensable official qualification that he shall reside within designated limits, he will carry with him into court all the peculiarities, not only of character and learning, which are desirable, but of jealousy and feeling, that naturally arise out of State pride and State doctrine. Need I go out of this hall for the truth of what I assert? Every gentleman on this floor is, I doubt not, as pure as any judge—on many points as learned—perhaps on all as wise—each no doubt acts upon his own convictions; and yet is it not easily perceived that we come from different quarters? We have, as we ought to have, representation in its best shape in this House—we have it in another aspect in the co-ordinate branch of the Legislature—but the court of the last resort should be the court of the nation; and, in making these remarks, I trust it will not be supposed that I am for consolidation—far from it; but I am in favor of a court which, perched as the Supreme Court is, upon a lofty eminence, shall be surrounded by the country's honor and confidence, and leave far below the passions and feelings which would push it from this elevated point.

The honorable chairman of the Judiciary Committee has referred to the consideration of economy. It is well worthy of attention. I mean that liberal economy which leads, in public and private affairs, to the best consequences—a principle that, while it freely appropriates or expends money where a correspondent benefit may be reasonably calculated on, steadfastly refuses the application of its means to any purpose that does not promise an adequate return. He spoke of it as furnishing a good reason for preferring his bill to the circuit court system, which some honorable gentlemen advocate; but, as I do not intend to recommend either the one or the other to the adoption of the committee, regard to proper economy comes to me in aid of other considerations, for retaining the present judges without addition, under certain modifications of their duties.

But the reason which, in my judgment, is decisive, is, that the proposed change is not necessary. How? Has not a different idea prevailed for years past? Was not a bill very much, if not altogether, like the one under consideration, reported four sessions since, and debated at length, and yet this opinion not advocated—nor has it now been brought into view? True—and perhaps temerity may be thought to mark my conduct, while I attempt to show the committee that the ground I have taken is one upon which I can stand.

The business of England, multifarious as it is,



FEBRUARY, 1890.]

*The Hornet.*

[H. OF R.]

and various as it must be, from the complexity of her extended commercial pursuits—from her manufacturing and agricultural transactions, and the varied intercourse of a large and very dense population, is done, and well done, by fewer judges than we have now; if you embrace your Supreme Court and all the district judges, by fewer than one-half, exclusive of our State judicial magistrates—amounting to some hundreds, many of them possessing the deepest learning, and the most enviable reputations for talents and probity. The fact is they labor more; an English judge will go into court in the morning, and, instead of returning home to dine, will, perhaps, in a press of business, eat a few mouthfuls on the bench to sustain him. Our State judges devote a much larger share of time to judicial duty, than is done in the United States courts. In Pennsylvania not less than nine, perhaps ten, months are employed annually and assiduously in public business, by her Supreme Court judges. Great labor, greater responsibilities, and an abstraction from social pleasures and domestic joys, are the price that every kind of distinction costs. Look at your Chief Magistracy; it is the highest office in the world—desired by many—attained by few—and rarely by those who desire it most; although the distinguished individuals who have filled it, the illustrious man who now graces it, and those who shall hereafter occupy it, are and will be identified with our country; will live in her history, and be regarded as the most fortunate of men; yet I do not hesitate to say, that however fortunate it may have been, or will be, for the country, that some of them have reached, or may hereafter reach, her highest honors, to themselves it brought no happiness—that it never will bring any in the discharge of its duties; the highest rewards may soothe their retirement; the good opinion and gratitude of their fellow-citizens, and the consciousness of having performed well the highest duties, which belong to such as deserve them, when they have ceased to be public functionaries—but while they direct or shape the destinies of the country, they must look for labor and anxiety without cessation or stint. Shall the most elevated judicial stations be exempt from the common rule? Shall citizens ascend the political ladder, and not be measured by the scale which regulates responsibility and toil, and which assigns an increased portion of both to increased dignity and honor? By no means. What is your plan? Simply to model the circuits so as to spread them over a greater surface, and to require of the judges the discharge of extended duty. Show us, I think I hear gentlemen say, that the required duties can be performed, on any reasonable modification of them, by the present judges, and we will yield. I do think that the present circuits, although greatly enlarged so as to be co-extensive with the provisions of the bill, may be so modified that seven judges can discharge the duties readily and with ease.

The confidence which the nation feels in this tribunal, and those who constitute it, is owing, in part, to their discharge of circuit court duties, the advantages of which I fully appreciate, and concur in many of the views in relation thereto, taken by my colleague, (Mr. BUCHANAN,) but I should hope a higher and better principle than personal regard lay at the bottom of the almost reverence with which its decisions are received; that the great element of the permanency of our Government, a determination on the part of the governed to submit to the constituted authorities, so long as they moved in their proper orbits, produced the acquiescence in opinions formed in uprightness, and delivered with ability. I conceive that this tribunal was never shaken by party tempests, nor moved by the storms which, while they agitated, served to purify our political atmosphere, because the constitution had ordained that its decisions should be final—because lengthened official existence had been given to its functionaries, and because it was, by the league, made unchangeable, unless crime or death interposed.

It will continue to be respected and confided in, when those who, now exercising the highest judicial powers the world knows in the most dignified stations, are nevertheless themselves more dignified, and giving back to the bench a lustre greater than that which it shed upon them, shall be remembered among those who have been our benefactors.

THURSDAY, February 18.

*The Hornet.*

An engrossed bill, entitled "An act for the relief of the widows and orphans of the officers, seamen, and marines of the sloop of war *Hornet*," was read the third time; and the question was stated, "Shall the bill pass?" when

Mr. CLAIBORNE, of Virginia, said he could not vote for this bill if the words brothers and sisters were retained. When a man fell in the service of his country, he had no objection to make a reasonable provision for his wife and children, if he had such; but to extend it further, was a dangerous precedent. He felt no hesitation in saying he could not and would not sustain it. If we could make donations—to the relations of officers who have perished in the service of their country, to brothers and sisters, where, and at what point, shall we stop? Have we entered into an agreement to provide for all the relations of our officers now in service, in case of their deaths? If such engagement has been entered into, I hope it will be produced. The system of pensions, sinecures, and donations, name it as you please, is a dangerous system; it has been sustained in most countries where it is now permanently enthroned, by passionate appeals to the liberality—the generosity of the people. Those appeals have also been too successful—they have produced bitter fruits.



In the Old World palaces have been built, estates purchased for distinguished individuals—with money drawn by a rigorous and cruel and oppressive taxation, from the poorest classes of the community; I say the poorest classes of the community, for while many fatten upon taxation, there are in all countries those who feel its burthens only. I do not like the term generosity. We have no right to be generous and charitable with the money of other people. We may give pensions to the widows and children of those who perish in the service of the country; for we have every reason to believe that they have thereby been deprived of the means of support; go beyond this in your pensioning system, and you are in great danger. The isthmus which separate acts that are generous from those that are venal, is very narrow, and we must be cautious, or we may pass it, and be involved in all the consequences that an overgrown system of pensioning has brought about in some of the more ancient nations of the earth. Our system has gone nearly as far as that of Great Britain, except that as yet we have no civil pensions. Let in civil pensions, and then you have the British plan—a system that has entailed an enormous debt on that nation, subjected their people to the horrors of heavy taxation, and reduced a large portion of their population (if their own writers are to be believed) to penury. Such have been the effects of pensions, sinecures, and donations indulged in by another country. When you have equalled them in the extent of your pensioning system, you may witness here what is witnessed there, for nature is not the partisan of a cis or a transatlantic world. My alarm is the greater, because no one pretends to know any thing of the condition of the brothers and sisters of the deceased officers. Those who support this bill assume (I suppose) they are poor. I may assume that the officers of the army and navy are most generally related to the wealthiest men in the community. Let no one suppose he venerates the glory of the navy more than I do. I esteem the navy most highly. My willingness to provide, for a reasonable time, for the wives and children of the officers and seamen who have perished in the service of the country, is proof of this disposition to the cause of the navy. The amount that is depending on this question is not of very great consequence. But it is a question of principle, and that makes it all-important. It is a great and memorable principle, that will fix hereafter, if settled as in the bill contained, the expenditure of millions. That is what constitutes its importance. I enter against the passage of this bill my protest. I will detain you no longer.

Mr. TUCKER, of South Carolina, asked for the yeas and nays upon the question of the passage of the bill; and the call being sustained by a sufficient number, they were accordingly ordered.

Mr. TEST moved the recommitment of the bill to the Committee on Naval Affairs, with

instructions to strike out that part of it granting the gratuity proposed by the bill to the brothers and sisters of the sufferers.

Mr. DONNER said, the duty of reporting the bill now under discussion having been assigned me by the Committee on Naval Affairs, it will be expected, however reluctant I am to mingle in the discussions of this House, that I shall state the principles involved in it, and reply to the objections which have been presented to this committee in opposition to its adoption.

The committee, before they reported the bill, deemed it their duty to search into the practice of the Government, in making provisions for the crews of national vessels lost at sea. It has pleased Divine Providence that the number of those should be but few. The first that occurred was that of the frigate *Insurgent*, captured from the republic of France by the gallant Truxton; the second, that of the brigantine *Pickering*—they both foundered at sea, in the same destroying gale. In April, 1802, Congress voted four months' additional pay to be paid to the widows of the officers, seamen, and marines who perished on board of those vessels, and if no widow, then the gratuity to be distributed among the children. The next like visitation of Providence fell on the sloop of war *Wasp*, commanded by the lamented Blakely. Congress were called to legislate on the subject, and a more expanded principle of distribution was then adopted. By the act of April, 1816, twelve months' pay was ordered to be distributed, one-third to the widow, and two-thirds to the children; if no child, then all to the widow; if no widow nor child, then to the parent; if no parent, then to the brothers or sisters of the officers, seamen, and marines. The *Epervier* and her crew, commanded by the gallant Shubrick, soon thereafter met the same untimely fate; and Congress, at the next session, provided for the distribution of six months' extra pay—first to the widow; if no widow, to the child; if no child, to the parents; if no parent, then to the brothers and sisters.

Thus Congress adhered to the diffusive principle contained in the bill now before this committee, while the mother was preferred to the child, and had all the gratuity of the Government given to her, the restricted principle, adopted in the case of the *Insurgent* and *Pickering*, confining the donative to the widow and the children, was rejected. The Committee on Naval Affairs deemed it inexpedient to disturb the question, and felt disposed to adopt the matured and settled policy of the national legislation, in connection with this subject; they therefore have reported this bill—a copy of that adopted in the case of the *Epervier*. A motion is now made to strike out the contingent provision for the brothers and sisters, on the ground that it is extending the bounty of the Government to collateral relations, and that it ought not to be the policy of this Government to extend the principle of the pension

FEBRUARY, 1880.]

*The Hornet.*

[H. OF R.]

system, alleged to be dangerous and corrupting.

Although, if it were a new question, for the first time suggested for our action, much might be said on both sides, I now deem it unnecessary to enter into the minute considerations which may have influenced our predecessors to depart from the precedents of 1804, and recognize the enlarged policy on which the acts of 1816 and 1817 are predicated. This difference of legislation may be traced, in part, to the more enlarged views of the nation as connected with our navy.

In the infancy of our Government, this arm of our national defence was looked on with a most distrustful and jealous eye by a large portion of the politicians of this country; great exertions were made to cripple its progress, and appropriations for its increase were resisted with great pertinacity. It was deemed by some to be only advocated as a means of enlarging the Executive patronage, by others as improvident, because, in the infancy of our Government, and in the weakness of our resources, we were incompetent to contend with the naval powers of Europe, and that every ship that we sent to sea was inevitably doomed to swell the number of our enemies' ships. During the triumph of these doctrines, an appropriation was asked for the relatives of those who perished in the *Insurgent* and *Pickering*. Its restricted appropriation, as to amount and objects, displays the then apathetic indifference to the cause of the navy. But another state of national feeling controlled the legislation of 1816 and 1817. The navy then had not only conquered its foreign foes, but had achieved a victory over its domestic enemies. Every citizen participated in the glory of our navy battles; every manifestation of national respect evinced the national gratitude to those who gained for themselves such imperishable glory, and added to the renown of our youthful nation, by splendid exhibitions of consummate naval skill, daring intrepidity, and distinguished humanity.

The evidence of a high national feeling and enthusiasm was not confined to the living only, or those who perished in the blaze and glory of battle. A provident policy, and grateful respect for the memory of our naval benefactors, gave rise to a more expanded system of national remembrance of those who found a watery grave, far from home, while offering the protection of our national flag to our wide-spread commerce.

Shall we now abandon this policy, and thus admit that the course of our predecessors was unwise and dangerous, as tending to the expansion of our pension system? for surely there is nothing in the history of this gallant ship, and of her noble crew, that can justify the nation in withholding the like expression of national regret for their loss, and the same sympathy with the relatives of those who perished with this ship, as were expressed in the cases of other

ill-fated vessels. Are we willing to add to their orphanage and bereavements another pang, by the invidious comparison of relative merits which will result from the adoption of this amendment? Are we willing so to legislate as to induce a belief that the *Hornet* and her crew have not the same claims on our country as the *Wasp* and *Epervier*, and their crew had?

The name of the *Hornet* will be as imperishable as the history of the last war. In her engagement (when under the command of the lamented Lawrence, who died too soon for the cause of his country, but not too soon for his own fame) with the *Peacock*, there was exhibited the most brilliant specimen of naval gunnery ever exhibited. In fifteen minutes the *Peacock* was so riddled that she sunk before her whole crew could be removed, and carried down with her three of the *Hornet's* men, engaged in the humane attempt to save the lives of the drowning enemy. An engagement which has coerced from the veriest foreign revilers of our naval skill the highest praise, and compelled them, on the floor of the British Parliament, to admit that the naval gunnery on board of the *Hornet* could not have been surpassed by the most cool and deliberate target firing.

However brilliant this achievement may have been, the distinguished humanity of the victors also added great lustre to our national character: for they so conducted themselves, that the grateful captives proclaimed to the world "that the courtesies and attention received from their hands caused them to forget that they were prisoners of war." The war on the ocean was terminated by a brilliant victory achieved by the *Hornet*, too, when commanded by the gallant Biddle, over the *Penguin*. Surely there is nothing, then, in the character of this ship that should make us unwilling to notice her loss in the same manner that the loss of national ships has been noticed. Is there any thing in the history of her gallant officer, Otho H. Norris, and his crew, that justifies a departure from the practice of the Government? No, sir; his life was devoted to his country, and marked by an untiring zeal, great nautical science, consummate personal bravery, and elevated patriotism. He was a native of Maryland, a son of a distinguished revolutionary patriot. At an early age, he displayed a great fondness for a seafaring life. His parent yielded his assent, and gave him an education to fit him for such pursuits. He entered him in the merchant service, to instruct him in practical navigation. In 1809 he solicited and procured a midshipman's appointment, and was ordered to repair on board the *Syren*. At this time, he was but fifteen years of age, yet, soon, thereafter, so distinguished was he for his superior seamanship and exemplary conduct, that he was placed in the command of a gun boat at New Orleans. From that time, he was constantly in service, and sailed from Charleston in the *Carolina*, as her second officer, under Captain Hendley, to co-operate in the defence of New

Orleans against the then anticipated invasion by the enemy. In all the labor, fatigue, and dangers of that interesting crisis, he was engaged. In the battle of the 28d December, when the execution of the guns of the Carolina contributed so essentially to discomfit the foe, he was among the most ardent and brave. When she was burnt by the hot balls of the enemy, he tendered his services to the commanding general to serve on shore, and, in the ever-memorable battle of the 8th of January, he commanded battery No. 2, a twenty-four pounder, and contributed, by his skill and gallantry, to that glorious victory which on that day crowned the American arms, and the anniversary of which is celebrated by a grateful and admiring people of its authors, with every demonstration of national joy and gratitude. For his exertions on that day, he received the thanks of his general (now the President of the United States) in the following warm and cheering words: "Lieutenant Norris, who commanded a twenty-four pounder, displayed, during the several engagements, the utmost skill and courage, and merits the thanks of the country."

He (Captain Norris) was never inactive; he was almost continually in service. He was among those who encountered in vessels, (affording none but very slight comforts,) under the command of Commodore Porter, the diseases of the West Indies, while attempting to free the sea from the plunderings and massacres of savage pirates. It was rumored last August in Pensacola, that Mr. Poinsett, our Minister to Mexico, had been assassinated. Captain Ridgely ordered Captain Norris to repair to the coast of Mexico, and give such security and protection to our citizens as such a lawless and unexpected event might require. He arrived at Tampico the latter part of August, at a period when the American interest required the countenance and protection of a national ship. It was at a moment when Barradas, a Spanish General, had made a descent upon Tampico, with a view to subjugate the Mexican province to the crown of Spain. Feeling power, and forgetting what was due to the American character, this general demanded from an American citizen money, and extorted it by force and personal violence. The American consul interposed, and asked restitution and indemnity. It was not listened to. At this period Captain Norris arrived at Tampico. The complaints of the American citizen reached his ear. Faithful to himself, and indignant at the insult offered to his countryman, he demanded restitution of the property forcibly taken, and an ample atonement for the personal insult. His demand was gratified. While thus remaining at Tampico to afford further protection, it pleased high Heaven to visit that coast with the awful and terrific storm of the 10th September, and to involve in one common grave this gallant ship and her noble crew. Is there any thing in such a life, in such

a service, and in such a death, as will justify this House in withholding the ordinary and customary reward, the indication of national respect and of national sympathy?

The principle of the bill has none of the objections offered to a pension system. As a precedent, it is not dangerous. The causes which give rise to legislation on this subject, have been but rare; they have sprung from the elements, from storms and tempests, from the visitation of God. Since the existence of the Government, we have had to mourn only few such losses. Let us, therefore, banish all fears, that the precedent again to be sanctioned by this bill will or can act oppressively upon our national resources. It is not a pension; there is no annual drain on the Treasury; it creates no privileged class in society, drawing their support from the revenue of the country, and thus producing a wretched spirit of dependence, disgraceful to the character of freemen, and enlarging the patronage of the Government. No, it is no more than an expression of sorrow and regret for those who have deserved well of their country, and perished in our service, whilst affording, by our flag, security to our citizens and our commerce. It is an expression of sympathy with the relatives of those who have thus perished; it is a slight offering, a slight one, indeed, to the relatives of faithful servants, to prevent the immediate and sudden distress incidental to those who have depended on them for the necessities of life, until some new pursuits can be entered into.

These, and these only, are the principles involved in this bill; and I trust that no departure from it shall manifest that the nation has not now the same remembrance of the navy, and does not cherish for it the same provident regard, as distinguished the Congress of 1816 and 1817.

Mr. STORRS said, that as the opposition to the bill appeared to be chiefly directed against that part of it which provided in some cases for the payment allowed to the brothers and sisters of the officers and seamen, he hoped it would not be recommitted for the purpose of striking out that provision. The bill follows, in that respect, others of a like character, framed on other similar occasions, and the principle seemed to him to be as fair and just as any part of it. I think (said Mr. S.) that the gentleman from Virginia (Mr. CLAIBORNE) is greatly mistaken in supposing that the officers of the navy, or their relations, are among the wealthiest part of the community. I believe that it would be found, in most cases, quite the reverse, if it could be accurately ascertained. Certainly it may be very safely said, that the officers themselves are generally very far from rich, if they are even independent. I am acquainted personally with very many of them, whose parents and sisters have been in a great degree dependent on them for the comforts of life. Now, the bill provides that, in distributing the small gratuity proposed by it to be

FEBRUARY, 1880.]

*The Hornet.*

[H. OF R.]

offered to them as a public testimonial of our sense of their merit and public services, if it should so happen that the deceased has left no parent, widow, or child, it shall be paid to his surviving brothers and sisters. There were many of the ship's company of the *Hornet* who contributed to the support of their sisters as well as their parents; and if it should happen that, in any case, the mother had deceased, it would be an unkind, not to say a harsh restriction in the bill which should deprive her daughter of the trifling contribution to her comfort. The sister stands in about the same near relation to the party as the mother; and admitting her or her brothers to share in the distribution, the bill proceeds on the same principle which allows the mother to participate in it. In both cases, we assume what we know frequently exists, that the officer or sailor contributes from his pay to the support of his sisters or younger brothers, as well as his parents, and there is no reason for making any discrimination between them. It may, indeed, happen, that, in some few instances, the relations may be in circumstances calling for nothing like relief, or even honorary gratuity from the Government. This may be the case as to some of the officers. But as to the seamen, it is not probable that there is any such case; and if we were to deny the gratuity altogether, because there may possibly be some case not calling for it from us, we may do a very unkind act to many who are justly entitled to our favorable notice. The allowance is at most, in all cases, very small; and will hardly be an equivalent for the individual property which many of the officers and seamen may have had on board the ship. The brothers and sisters would have shared in that, if their relative had died on the cruise, in the same case in which they will share under the present bill. He hoped, therefore, that the bill would not be recommitted, or changed in its provisions in any respect.

Mr. A. H. SHEPHERD advocated the bill as it was reported by the Committee on Naval Affairs. He thought that the provision which it contained, granting the benefit of the donation to the mothers and sisters of those who had perished in the performance of the duty which they owed and had paid to their country, ought to meet with the sanction of the House, as it would most assuredly receive the approbation of the country. By that section of the Union to which he belonged, he felt himself authorized to say that it would be cordially approved. In illustration of this, he instanced the case of one of the unfortunate gentlemen who met with an untimely fate in the disastrous event which deprived the nation of the services of so many gallant and meritorious citizens. The person he alluded to was the son of the late Col. Forsyth, of North Carolina, who fell upon the field of glory in the defence of his country. The son went to reside in the State of Tennessee; but the Legislature of North Carolina, with a generosity which redounded to its credit, and

which he, as a citizen of that State, felt pride in reverting to, provided for him. The youth was eager to sustain his father's well-earned fame, by devoting himself to the service of his country; and he sought glory, not in the field, where that father's renown was acquired, but upon the ocean, in the depth of which himself and his associates were now buried. For himself (said Mr. S.) he entirely concurred in the opinion expressed by the gentleman from New York (Mr. STORRS) as to the propriety and justice of retaining that feature of the bill; and also as to the fact of many of our most deserving officers being the children of poor and indigent parents—a circumstance honorable to themselves, and gratifying to their families, and to all who can feel pleasure in witnessing the exaltation of merit. In relation to the individual whose name he had mentioned, he could not bring his mind to consent that the brothers and sisters of that young gentleman, the children of his amiable and respected mother, the children of his venerated father, should be deprived of the advantages which that clause of the bill might possibly afford to them. For his own part, he could not consent to leave unremembered and unhonored the memory of one whose name was connected, not only with his own State, but also with the glories of his country.

Mr. SPEIGHT remarked that he had said yesterday, and repeated again to-day, that he was opposed to the whole bill, and was opposed to it in principle. He believed he had as much sympathy for those who had been bereaved of their relatives by this great calamity of the loss of the *Hornet*, as any member on that floor; and when called in his individual capacity to administer to their wants from funds under his own personal control, he believed he would be as prompt to manifest it. But, he could not answer to his constituents, nor to his own conscience, the propriety of thus appropriating the public funds. As to the argument of the gentleman from Maryland, (Mr. DORSEY,) who advocated the bill on the score of gratitude to the gallant crew of the *Hornet*, or the glorious achievements of that vessel, he would ask that gentleman if this principle obtained, where his pension law would stop? It was perfectly analogous to the whole system of the pension law, which he had opposed on former occasions, and which he could not consent to have crammed down his throat; and he hoped his opposition to it would not be emblazoned before him as a political sin. He contended that Congress had no power thus to legislate away the public Treasury, and that, too, to individuals who had actually performed no services to the country. Should he vote for this bill his constituents would have a right to demand of him on what principle he did so. If they ask me (said Mr. S.) whether I inquired into the pecuniary circumstances of those individuals to whom I voted this money, my answer must be "no; it was on the broad principle of national gratitude." And will this be a satisfactory an-

swer? Sir, I wonder the gentleman did not carry their gratitude to its fullest extent; and in the next thirty generations of the relatives of the deceased, in their bountiful provisions. The gentleman asks if this House is prepared to reject this provision of the bill. I trust in God, sir, it is prepared for it. The oppressive system of taxation for the increase of the revenue, must and will be put down by those who feel its burden.

In conclusion, (said Mr. S.,) he could not vote for the bill. It seemed that when gentlemen put their shoulders to the wheel on the subject of pensions, they were disposed, to use a vulgar phrase, to "go the whole hog," and allow no bounds to restrain them. Mr. S. also alluded to the case referred to by the gentleman from North Carolina, (Mr. A. H. SHEPHERD,) of young Forsyth, who was educated at the expense of his own State, without appealing to the National Legislature for assistance.

Mr. TEST said he felt it due to himself to state, after what had been observed, the reasons why he moved the recommitment of the bill. The policy of it, (said Mr. T.,) the grounds of it are questionable. What (he asked) was the object of making such appropriations to those engaged in our land or naval service? The object is, that when they are about to enter upon scenes of danger, they may not be appalled by the helplessness of their families, should any thing occur to them by which they might be deprived of their protection and support to encourage them to meet the perils of their station bravely, by holding out the certainty of future support to their bereaved families. This is the true ground on which the pension list is bottomed. Does this case come fairly within the range of the principle stated? It is certainly very doubtful if it do. All who belonged to the Hornet were there by their own free will, and there were many who envied them the situations they held. Was it a war they were engaged in when they perished? No. Did they encounter any danger? No. There would be much stronger ground for the proposition, had this lamentable occurrence happened in time of war. But the bill, as it now stands, is wrong in principle. And I ask with the gentleman from North Carolina (Mr. SPEIGHT) if this principle is adopted, where is it to stop? It must go *in infinitum*. They did not encounter any extraordinary danger. Their loss was an act of Heaven—of the hand of God. There is nothing extraordinary connected with it, calculated to excite our sympathies, except the deplorable destruction of human life which might not have happened to any other vessel either public or private, and it is evident that the places occupied by them might well have been desired by thousands. But how does the principle of the pension system apply to brothers and sisters? They are wholly unconnected with the service or its dangers. If, as the gentleman from New York (Mr. STORRS) says, the brothers or sisters of any

of these officers or men are poor, and their poverty is the consequence of this misfortune, I shall vote for them; but the sisters of some of them, for aught we know, may have husbands worth thousands of dollars.

Mr. T. denied that this principle had always been observed by this House; and, in corroboration of what he said, he instanced the case of the mother of Commodore Perry, whose claims for a pension were brought before Congress, under circumstances calculated to arouse all our sympathies. She was admitted to be poor at the time, and that she derived her sole support from her son; yet her claim was rejected. The principle now sought to be established would soon become general, and a dangerous precedent (he said) it would be. He did not view this case in the light in which pensions are ordinarily given, for he did not think it would hold out any encouragement for persons to enter into the land or naval service. It was a hard duty he had to perform in moving the recommitment of the bill; and if he were to be governed by the dictates of his feelings, he could not have done it; but his judgment pointed out to him what was his duty, and he was forced to pursue its dictate.

Mr. T. concluded, by stating that he did not wish to vote against the bill, notwithstanding the questionable character in which it comes before the House; but, as it stands, its claims are addressed much more to our sympathies than our justice.

Mr. HOFFMAN expressed his regret that a discussion on this subject should have taken place, and proceeded to explain and defend the objects and the principle of the bill. He said the naval service was promoted by grants of this kind, and he hoped that the House would not depart, in the present case, from a rule so long established, and recognized in the proceedings of this House in several instances. A departure from a system, so beneficial in its consequences to the naval service, would diminish the encouragement now held out to persons to enter it. He hoped the discussion would not be protracted, and that the bill would be suffered to pass.

Mr. ELLSWORTH said, the bill rested more upon a principle of duty, than of mere favor and gratitude. Are gentlemen prepared to say that the representatives of these unfortunate men are not, upon principles of justice, entitled to this small pittance? Upon the strictest construction, the representatives of the officers and crew of the Hornet may demand what they were earning up to the moment of their loss. And is not the claim materially the same for a short time after that event? May not their families most properly look to us for that little portion of their subsistence which they were anticipating, and need the more because of this melancholy disaster? Why do we allow pensions? It is upon a principle of duty and strict propriety. And such is the case here. Justice and true national policy imperiously demand we should pass this bill. It is the settled policy

FEBRUARY, 1890.]

*The Hornet.*

[H. OF R.]

of the Government. And, sir, if a wife and children may ask, upon the principle of right, I see not why brothers and sisters may not. We owe this money to the representatives of these men. Let us not add distress upon affliction, by withholding a momentary relief.

Mr. EVERETT inquired what was the precise question before the House?

The SPEAKER stated the question to be on the motion to recommit, with instructions to strike out the clause extending relief to brothers and sisters, in default of nearer relations.

Such (said Mr. EVERETT) was my understanding of the state of the question, and it seems to me, therefore, not in order to discuss the general principle of the bill. It has been admitted that this bill was to pass, and the only objection taken to it, in committee, was to this extension of its provisions to brothers and sisters. This objection assumes that the officers, seamen, and marines of our public armed ships belonged to that class of the community in which they are likely to have wealthy brothers and sisters; such as stand in no need of the gratuity provided by this bill. No one can suppose that this is the case with the petty officers, seamen, and marines, who are, of course, the most numerous class of those provided for; and, as far as they are concerned, the objection falls to the ground. The same, in general, may, no doubt, be said of the officers as a class. It is by no means true, generally speaking, (as the objection before us supposes,) that they are of an affluent class in society. But granting that they are, and that the objection taken is well founded, do not gentlemen see that it proves too much? It is urged that, by extending this gratuity to brothers and sisters, we extend it to some of the richest persons in the country. If this be so, cannot, and ought not, these rich persons support their parents, their nephews, and nieces? But it is granted that these last are entitled to the gratuity; although, in proportion as these unfortunate officers, lost in the *Hornet*, have left wealthy brothers and sisters, in the same proportion their widows, children, and parents have no need of the public gratuity. But to deny it to these last, is against the admitted expediency of the whole bill.

It is plain, therefore, that there is no course for those opposed to the clause in question, but to go against the principle of the whole bill, as is done, in point of fact, by the gentleman from North Carolina, and the gentleman from Indiana. I shall not engage in the defence of that principle, for it is sufficiently established in the legislation of the country. I cannot, however, forbear a reply to one or two remarks of the gentleman from Indiana, (Mr. TERRY,) by which he seemed to distinguish between this case and that of the widows and orphans of officers and seamen killed in battle. He thinks that, in time of peace, the service is on a different footing from what it is in time of war, and less meritorious. If there is any difference, however, the service is more attractive

in time of war; and it is more peculiarly necessary, in time of peace, on public grounds, to strengthen the encouragements which it presents. As to the officers, of course, no distinction exists; they engage in the service for life. The men enlist for limited terms; but I believe the calculation, whether it is a time of peace or war, or whether a war is likely sooner or later to happen, never enters into their heads; and, as far as the temptations to enlist exist, it is as easy to enlist a crew in time of war as in peace. I believe, sir, that every motive of fair policy requires these encouragements in the service rather in time of peace than war.

The gentleman said, the vessel was not lost in battle but by casualty; it was not a danger to be bravely encountered; no energetic act was to be performed. I differ from the gentleman. I believe that a storm, violent enough to destroy a ship of war, is far more dangerous and terrific to landmen or seamen, than any battle that was ever fought. Gentlemen recollect the descriptions that we have had of the frightful storm which swept the Gulf of Mexico, about the 10th of September, and in which it is supposed the *Hornet* was lost. A letter has gone the rounds of the newspapers, from a vessel which was on the outer verge of the range of this storm; and the captain represents it as dreadful beyond description. Do gentlemen tell me that the condition of a vessel of war, oppressed by her armament, in such a storm, is nothing compared to a battle? Sir, a battle has no terrors to the gallant seaman. It is full of hope, promise, glory, and even reward, if no higher motive operated. But what is there to animate and cheer him in one of those tremendous tempests, to enable him to bear the labor, and brave the dangers that surround him? I am well persuaded, sir, that there was not one individual, man or officer, on board the unfortunate *Hornet*, whose muscles were not stiff with labor; whose nerves were not strained with agony, before he went down to his watery grave. And suppose it had been told them, at the last dreadful hour, that, within four months, a pittance like this (and a miserable pittance, after all, it is) would be proposed in the Congress of the United States, for the relief of the widows, the mothers, the children, the sisters, dependent on them for support, and whom they should never behold again, and that this poor pittance would be denied, would it not have added unspeakably to the agony of that last moment, and have embittered the bitter cup of death? Sir, I speak with feeling on the subject; and with good reason. Among my neighbors, there are some included within the provisions of this bill. I speak for the widow and orphan, whose wants have been brought home to me. It is my duty to them, my duty to myself, to oppose the recommitment. I hope the clause will not be stricken out; but that the bill will pass as it came from the Committee of the Whole.

The question being then taken on the motion of Mr. TEST, to recommit the bill to the Committee on Naval Affairs, it was decided in the negative, by yeas and nays, by 114 votes to 70.

The question was then taken on the passage of the bill, and decided as follows:

YEAS.—Messrs. Alexander, Anderson, Angel, Arnold, Bailey, Barber, Barringer, Bartley, Bates, Baylor, Beekman, Bockee, Boon, Borst, Brodhead, Brown, Buchanan, Butman, Cahoon, Cambreleng, Campbell, Chandler, Clark, Condict, Conner, Cooper, Coulter, Cowles, H. Craig, Crane, Crawford, Creighton, jr., Crocherson, Crowninshield, John Davis, Deberry, Denny, DeWitt, Dickinson, Doddridge, Dorsey, Dudley, Dwight, Earll, jr., Ellsworth, George Evans, J. Evans, E. Everett, H. Everett, Finch, Ford, Forward, Fry, Gilmore, Green, Grennell, jr., Halsey, Hammons, Hemphill, Hinds, Hodges, Hoffman, Hubbard, Hughes, Huntington, Ihrie, jr., Ingersoll, Irwin, Isaacs, Jennings, Johns, jr., R. M. Johnson, Kendall, Kennon, Kincaid, Adam King, Leiper, Lent, Mallary, Marr, Martindale, Martin, Thomas Maxwell, Lewis Maxwell, McCreery, McDuffie, McIntire, Mercer, Miller, Mitchell, Monell, Muhlenburg, Overton, Pearce, Pettis, Pierson, Potter, Powers, Ramsey, Randolph, Reed, Rencher, Richardson, Ripley, Rose, Russel, Scott, W. B. Shepard, Shields, Semmes, Sill, Smith, Smyth, A. Spencer, R. Spencer, Stanberry, Sterigere, Stephens, H. R. Storrs, Wm. L. Storrs, Strong, Sutherland, Swann, Swift, Taliaferro, Taylor, Test, Vance, Varnum, Verplanck, Washington, Wayne, Weeks, Whittlesey, C. P. White, Wickliffe, Wilde, Wilson, Young—138.

NAYS.—Messrs. Alston, J. S. Barbour, P. P. Barbour, James Blair, John Blair, Chilton, Claiborne, Coke, jr., Robert Craig, Crockett, Daniel, Davenport, Desha, Drayton, Foster, Gaither, Gordon, Hall, Harvey, Haynes, Cave Johnson, P. King, Lamar, Lea, Lecompte, Letcher, Lewis, Lyon, Magee, McCoy, Polk, Roane, Speight, Sprigg, Standifer, W. Thompson, Thomson, Trezvant, Tucker, Vinton, Williams, Yancey—42.

So the bill was passed, and sent to the Senate for concurrence.

WEDNESDAY, February 24.

### *Indian Affairs.*

Mr. BELL, from the Committee on Indian Affairs, to which was referred that part of the President's Message which relates to the Indian Affairs, and sundry resolutions and memorials upon the same subject, made a report thereon, accompanied by a bill to provide for the removal of the Indian tribes within any of the States and Territories, and for their permanent settlement west of the river Mississippi; which was read, and committed to the Committee of the whole House on the state of the Union, and, with the report and documents, ordered to be printed.

Mr. BUCHANAN said this was a subject of great importance; the more, as he had no doubt, from the nature of the numerous memorials presented to the House, that great misapprehension prevailed in the country on the subject. It was commonly believed that the

Indians were to be removed from the Southern States by force; and nothing was further from the intention of Congress, or of the State of Georgia either, than this. It was right to correct the erroneous impression of the public on this subject; and he therefore moved that ten thousand additional copies of the report be printed for the use of the House.

Mr. BURENS did not rise to controvert the printing of any number of copies of the report, but in some sort to controvert the idea suggested, namely, that misapprehension and error had gone abroad on this subject. The gentleman said nothing was further from the intention of this Government and of Georgia, than to remove the Indians by force. Mr. B. presumed that nothing of this sort was intended by the Government of the United States; but when he saw Georgia making laws to extend over the Indians her jurisdiction, and excluding them from the exercise of their own rights, and calculated to drive them off, he could not agree to the remark of the gentleman. He hoped the motion would be postponed for a week, by which time the report would be printed, and the House could see what it was, and whether it was such as to deserve this great circulation among the people.

Mr. WILDE said he did not intend to be drawn into a premature discussion—premature, at least, in his judgment—of the highly important questions involved in the bill and report of the Committee on Indian Affairs, which had not yet been read. He agreed with the gentleman from Pennsylvania, (Mr. BUCHANAN,) that great misapprehension had existed on this subject, and disagreed with the gentleman from Rhode Island, who insisted that there was no misapprehension in relation to the policy and conduct of the State of Georgia. That State had indeed made provision prospectively for extending her laws over every person within her limits. In doing so, she had done no more than had recently been done by some of the new States—nothing more than had long since been done by several of the old ones. He denied that the State of Georgia entertained the project of driving the Indians from her soil by force; and he believed he had at least as good an opportunity of being informed as to the views and policy of that State, as the honorable gentleman from Rhode Island.

On a proper occasion he would enter into an examination of that policy. And he imagined it would not be difficult to prove that she had treated the Indians within her limits, with as much forbearance, humanity, and good faith, as any of the States in which she has found accusers. He would not institute, yet he should not shun, a comparison between her conduct in this respect, and that of any of the old States; and he promised gentlemen, if they did think proper to institute it, he would follow it out as far as his knowledge of their history extended, and the patience of the House would allow him.

At present, he was desirous merely of cor-



FEBRUARY, 1880.]

*Indian Affairs.*

[H. OF R.]

recting another misapprehension, in regard to the great excitement and deep interest which it was supposed the State of Georgia felt in the proceedings of Congress on this subject. He believed there was no such excitement as had been imagined. That State knew her rights, and was always ready and able to maintain them. She knew her duties, too, and had never yet failed to perform them. To the legislation of Congress, relative to the Indians within her jurisdiction, she looked without apprehension, certain that it would be limited to its constitutional objects only, and without solicitude, except that which she felt in common with every other State, in the condition of these children of the forest. Her interest in the question has been vastly exaggerated. The number of Indians within her limits was but little greater than that within the territory of New York, and their hunting grounds comprised about five millions of acres.

Her relations with the United States on the subject of these lands were indeed peculiar; and, when it became the subject of discussion, it would be seen whether blame rested anywhere, and with whom. It was enough now to avoid lending sanction, by his silence, to errors of dangerous tendency. He trusted that the largest number of the report proposed would be printed. All who had taken so active and ardent an interest in the affairs of the Indians and Georgia, would naturally be desirous of seeing the facts and arguments of the committee. It was to be hoped many of those persons were sincere inquirers after truth. Let us, then, afford them whatever light we have, to guide them in their search.

Mr. BATES could not, until he knew what the report was, consent to order this great extra number to be printed. He had great confidence in the committee which made the report, and especially for the honorable chairman: but he wished the report to lie on the table until to-morrow or next day, to afford an opportunity for examining it; and he moved to postpone the motion for the extra printing until to-morrow.

Mr. THOMPSON, of Georgia, called for the reading of the report. This was opposed by Mr. SUTHERLAND, as a useless waste of time; and was insisted on by Mr. THOMPSON, who said it was necessary, inasmuch as the not knowing what it contained was made a plea for objecting to the printing.

Mr. REED deprecated this departure from the old usage of the House, which was growing up. It had been the practice to print the usual numbers of a document, and, when read and understood, if found of great interest, to print an extra number. Now, it was becoming customary when a report was made, for some gentleman, not a member of the committee, but knowing something of it he supposed, to get up, and move an extraordinary number of copies. He hoped before this was agreed to, in the present case, the House would be enabled to know the contents of the report.

Mr. THOMPSON said, in deference to the opinions of friends near him, he would withdraw the call for the reading.

Mr. TAYLOR said a few words in favor of the postponement; and if that were not carried, he should call for the reading himself, as he could not vote for this extra number without knowing something of the report.

Mr. BUCHANAN rose to insist on the opinion which he had expressed, that great misapprehension existed in the country respecting this Indian question. The memorials which loaded the tables of this House proved this fact. He was satisfied that the fears of memorialists respecting the intentions of the Government, and of the State of Georgia, were totally groundless. The forcible removal of the Indians was thought, in many parts of the country, to be resolved on—a great excitement prevailed on the subject—enthusiasts have been busy in scattering firebrands and arrows throughout the country relative to this subject, calculated to create discord, to sow the seeds of disunion, and to sever brethren, who ought ever to be united. It was proper the people should have information to remove the error prevalent on this subject; and who (he asked) would desire to keep such information from the people?

Mr. WICKLIFFE would be willing to print the same number of this report as had been ordered of a report on the same subject made some years ago—he believed at the close of the nineteenth Congress—but no more. That report was made; and, without being read, a large additional number of copies were ordered to be printed.

Mr. EVERETT, of Massachusetts, said the gentleman was mistaken. He (Mr. E.) made that report himself, and he well remembered that it was read through to the House, before the printing was ordered. But as to the other question, the gentleman from Pennsylvania had said that great misapprehension existed in the country on this Indian subject; and gave that as a reason for moving the large additional number of copies of the report. Mr. E. said he would not contend about the correctness of this opinion, because that would be plunging into the discussion. But when the House is told that great error of opinion prevails on this subject, and that a certain document is calculated to contradict that opinion and correct the misapprehension, would the House favor the extensive distribution of that document without first hearing it? Was it not proper first to know what opinions it contradicts, and what it affirms? He had so much confidence in the committee, that had the printing been moved without any reason but the interest of the subject, he would have voted for it without hesitation; but it was the reason assigned for the motion which made him averse to consent to it.

Mr. GOODENOW, of Ohio, was in favor of the extra number of copies. As the subject was one of great importance, and as he had perfect confidence in the committee, he was willing,



on the faith of that confidence, to vote for the motion. There was nothing, he thought, more important, there was nothing more dear to him, than giving information to the people.

Mr. LAMAR, of Georgia, said he would not now enter into any discussion of the subject; but, when the time came, he could show, that, in the conduct of Georgia respecting the Indians, there was nothing inconsistent with the constitution or with propriety. That now was not the question; but it was true that great misapprehension existed in some parts of the country on the subject; the newspapers had teemed with statements and comments calculated to mislead the public mind; and he hoped that a large number of this report might be printed, and distributed among the people, to counteract the great misrepresentation on the subject.

Mr. STERIGER, of Pennsylvania, took it for granted that the report embraced all the laws of Georgia respecting the Indians, and all the facts of the case, presented in a fair view; and, as it would therefore enable the people to form a correct opinion on the subject, he was in favor of printing the additional copies. Mr. S. concurred in the opinion that the most erroneous impressions were entertained among the people on this subject. His own correspondence, as well as the numerous petitions received by this House, convinced him of the fact. He had received a letter lately from home, expressing surprise at a proposition now before Congress, as was honestly believed, for removing the Indians by force; and the people in his part of the country were actually holding meetings to petition Congress against such a measure. Another letter was in favor of the extension of jurisdiction over the Indians by the State of Georgia; but protested against the contemplated forcible removal, in favor of that which has been done, and against that which is not intended. He cited other cases to establish the fact of great misapprehension on the subject; and as this report would correct those erroneous impressions, he was in favor of the extra number.

Mr. MILLER, of Pennsylvania, preferred knowing for himself what the report contained, before he voted for printing this large additional number. The debate had consumed more time than the reading of the report could have done, and he wished it read. He had voted, some days ago, for printing six thousand copies of a report, without its being read, (the report made by Mr. CAMBRELENG, from the Committee on Commerce,) and he confessed if he had known what that report contained, he should have voted differently. He was resolved not to commit the same error again.

Mr. HAYNES, of Georgia, said the objection to the printing seemed to be the idea that the report was a partial one, an argument on one side. This was mere presumption, and ought not to hinder the distribution of the information which it contained among the people. Supposing the character of the report such as

was imputed to it, the House had printed a large extra number of a former report of an opposite character, and it would be unfair to withhold this.

Mr. WHITE, of New York, seeing no end to this debate, and perceiving its tendency to a premature discussion of the whole subject, if indulged, moved the previous question; but withdrew his motion at the request of

Mr. CAMBRELENG, who regretted to hear what the gentleman (Mr. MILLER) had said about the report of the Committee on Commerce. He knew not whether to consider those remarks as implying a compliment or a censure, but he was bound to receive them as complimentary. Would that gentleman suppress information, or withhold it from the people, because it might not correspond with his own views, or because he might dissent from the deductions from it. Mr. C. was surprised at the opposition to printing the extra number of the present report. There had been an Indian war raging out of doors; and he wished to have the question brought in here, where they might have a fair and honorable war with the other side, who had been carrying it on out of doors. He should like to see who were the members that were opposed to having this question placed fairly before the people; and he, therefore, demanded the yeas and nays on the motion for postponement.

Mr. STORRS, of New York, said that he wished to vote understandingly on every matter connected with so delicate and important a subject as that before the House. He might or might not agree to the principles of the report, and could not say whether he did or not, as it had not been read to the House, and he did not know exactly what the report was. He hoped that he should not be pressed to vote blindfolded on any question relating to it. He had, during the debate, looked very slightly at some of the sheets at the table, but had not time to read a passage of it carefully. In that part which he cast his eye upon, he saw that a paragraph from an opinion was quoted from a case in the Supreme Court of New York, but he had not time to look and see whether the report further stated that the case had been reversed in the court of errors there. He wanted information as to the nature of the report and its principles. At any rate, he did not wish to act in darkness upon it. He moved that it should be read to the House, and asked the yeas and nays on that question.

The yeas and nays were ordered; and the question was taken on the reading of the report, and decided in the affirmative: yeas 120 —nays 56.

The Clerk accordingly commenced reading, and had proceeded about half an hour; when

Mr. OLAY, of Alabama, moved to dispense with the further reading, which was agreed to —78 to 57.

A motion was then (about three o'clock) made to adjourn, and lost: yeas 48, nays 90.

FEBRUARY, 1830.]

*West Point Academy.*

[H. OF R.]

Mr. WHITE now renewed his motion for the previous question, which was seconded by a majority of the House.

Mr. STOKES, of New York, then moved to lay the motion for printing on the table, and called for the yeas and nays on the motion.

The yeas and nays were ordered; and, being called, the motion to lay on the table was lost: yeas 37, nays 143.

The previous question recurring,

Mr. VANCE demanded the yeas and nays on it, and they were ordered.

And the previous question being put, "Shall the main question be now put?" it was carried—yeas 126, nays 48.

The main question was then accordingly put, viz., on the motion to print ten thousand additional copies of the report, and decided in the affirmative, by yeas and nays, as follows—yeas 118, nays 56.

THURSDAY, February 25.

*West Point Academy.*

Mr. CROCKETT moved the following resolutions, viz:

1. *Resolved*, That if the bounty of the Government is to be at all bestowed, the destitute poor, and not the rich and influential, are the objects who must claim it, and to whom the voice of humanity most loudly calls the attention of Congress.

2. *Resolved*, That no one class of the citizens of these United States has an exclusive right to demand or receive, for purposes of education, or for other purposes, more than an equal and ratable proportion of the funds of the national treasury, which is replenished by a common contribution, and, in some instances, more at the cost of the poor man, who has but little to defend, than that of the rich man, who seldom fights to defend himself or his property.

3. *Resolved*, That each and every institution, calculated, at public expense, and under the patronage and sanction of the Government, to grant exclusive privileges except in consideration of public services, is not only aristocratic, but a downright invasion of the rights of the citizen, and a violation of the civil compact called "the constitution."

4. *Resolved, further*, That the Military Academy at West Point is subject to the foregoing objections, inasmuch as those who are educated there receive their instruction at the public expense, and are generally the sons of the rich and influential, who are able to educate their own children. While the sons of the poor, for want of active friends, are often neglected, or if educated, even at the expense of their parents, or by the liberality of their friends, are superseded in the service by cadets educated at the West Point academy.

5. *Resolved, therefore*, and for the foregoing reasons, That said institution should be abolished, and the appropriations annually made for its support be discontinued.

Mr. CROCKETT said he had endeavored some days ago to get an opportunity to offer this resolution, without being able to succeed. He submitted it in compliance with a duty which

he owed his country, and to his constituents especially. The people who sent him here were opposed to this institution; he had talked to the people on the subject; they had told him what their opinions were respecting it, and, if he kept his mouth shut here, he would not discharge his duty faithfully. He believed the resolution to be correct; the institution was kept up for the education of the sons of the noble and wealthy, and of members of Congress, people of influence, and not for the children of the poor. Indeed, it could be of little use to the poor any how; for if a poor boy could by chance get appointed, he could not get there, the expense would be too great; and if he could get there, it would be at the risk of his ruin, as the chance would be that he would have to go home by his own means. It was not proper that the money of the Government should be expended in educating the children of the noble and wealthy; that money was raised from the poor man's pocket as well as the rich. Every poor man, who buys a bushel of salt to salt his pork, or a pound of sugar for his children, or a piece of cloth for his coat, pays his portion of the taxes out of which this West Point academy was maintained for the education of rich men's sons for nothing, twenty-eight dollars a month besides. Another bad effect of it was, that no man could get a commission in the army unless he had been educated at West Point; but the army had been headed very well by men who never went to that academy. He remembered, in a little struggle we had a few years ago, he had gone out and performed his twelve months' tour of duty in the defence of his country, as well as he could. He did not mention this to boast of it; he there saw thousands of poor men who had also gone out to fight their country's battles, but none of them had ever been at West Point, and none of them had any sons at West Point. A man could fight the battles of his country, and lead his country's armies, without being educated at West Point. Jackson never went to West Point school, nor Brown—no, nor Governor Carroll; nor did Colonel Cannon, under whom Mr. C. said he served; and a faithful good officer he was.

The truth was, (said Mr. C.,) this academy did not suit the people of our country, and they were against it; the men who are raised there are too nice to work; they are first educated there for nothing, and then they must have salaries to support them after they leave there—this does not suit the notions of working people, of men who had to get their bread by their labor. He, therefore, felt it his duty to oppose this institution. He had intended, when the appropriation bills should come up, to move to strike out the appropriation for the support of this academy; and he waited the other day till after three o'clock, when it was expected they would be taken up when the House was in committee; and, after he went away, the bills

were taken up, and passed through the committee.

Mr. C. wanted information for the people about this academy; perhaps they did not know enough about it; some of them, may be, had never heard of it, and he wanted to let them hear of it and know all about it. He must say, however, that he did not offer his resolution with much hope of succeeding; there were too many gentlemen in the House interested in this academy, he feared, to allow his resolution to pass; but it was his duty to try.

A great deal had been said in the House about retrenchment, and they had been several weeks spending time every day in trying to dismiss a poor little draughtsman, who everybody admitted had been useful, and whose duties were necessary; notwithstanding this, he must be dismissed for the sake of retrenchment. Well, what was the consequence? Why, as soon as his office was voted down, up get gentlemen to move that the committee have the same work done by the job, which everybody knows is an expensive way of having public work done. That resolution, sir—[The Speaker reminded Mr. C. that it was not in order to introduce those resolutions in debate on the present question.]

Mr. C. said he did not want to break the rules, but he thought it could do no harm to point out these things, and if we are going to retrench, (said he,) let us retrench so that we can feel it. As for this academy, however, (said Mr. C.), the young men educated there did not suit our service; they were too delicate and could not rough it in the army like men differently raised. When they left the school they were too nice for hard service. He had seen them about here, and he supposed they had good salaries, which the poor people, who consumed the salt and other things which were taxed, had to pay.

Let us (said Mr. C.) put this institution down a little while, and see how it will work. He believed the true interest of the Government was to put it down, although he did not, for the reason before given, hope much to succeed. He wished, however, to see how the House stood on it, and he therefore requested the yeas and nays on his resolution.

Mr. McDUFFIE said that the resolution was one of much importance. He would agree with the gentleman, that there were many abuses connected with the institution; but, as the resolution ought not to be hastily acted on, he moved to lay it on the table, and print it; which motion was agreed to.

#### *Ardent Spirits in the Navy.*

Mr. CONDIOT offered the following resolutions:

1. *Resolved*, That the Committee on Naval Affairs be instructed to inquire into the expediency of inducing the seamen and marines in the navy of the United States, voluntarily to discontinue the use of ardent spirits, or vinous or fermented liquors, by

substituting for it double its value in other necessities and comforts whilst in service, or in money payable at the expiration of the service.

2. *Resolved, also*, As a further inducement to sobriety and orderly deportment in the navy, as well as with a view to preserve the lives and morals of the seamen and marines, that said committee be instructed to inquire into the expediency of allowing some additional bounty, in money or clothing, or both, to be paid to every seaman and marine, at the expiration of his service, who shall produce from his commanding officer a certificate of total abstinence from ardent spirits, and of orderly behavior, during the term of his engagement.

3. *Resolved, also*, That the said committee inquire and report whether or not the public service, as well as the health, morals, and honor of the naval officers, would be promoted by holding out to the midshipmen and junior officers some further inducements and incentives to abstinence from all intoxicating liquors.

Mr. CONDIOT remarked that this subject had been already referred to the Committee on Military Affairs, but they, under the impression that it was not within their province to report with respect to the navy, merely reported with respect to the army. They made a favorable report in regard to the army; and it was because they declined reporting on the other branch of the service, that he offered this resolution to refer the inquiry to the Committee on Naval Affairs.

Mr. HOFFMAN said that no man could rejoice more than he would if the use of ardent spirits were discontinued in the navy of the United States; nor was any man more convinced than he was of its injurious effects. But this ought to be left to the discretion of individuals, for he believed that no regulations would effect the object which the honorable mover of the resolution has in view. The resolution, it appears, deems whiskey that vulgar, democratic drink which Captain Basil Hall so strenuously condemned. Mr. H. said that when the people could procure good wine, although it is not so strong a drink, yet they would not ask for whiskey. With all our anxiety it would be found that any regulations we can introduce will be impracticable. The matter should be left optional with the officers and sailors themselves; and the example set to them by our people, and the judgment of the country, will be more effectual than any regulations we can adopt. It may be expedient (said Mr. H.) to make our sailors cold-water drinkers. He did not think so. He feared it would have the effect of reducing their efficiency, of impairing the courage, the generosity, and bravery, and all the other qualifications incidental to the character of our navy. If by the resolution it is intended to dispense entirely with the use of ardent spirits in our navy, the object would not, in his opinion, be obtained. If any gentleman will point out some practical scheme whereby to do away with this practice—because some practical measure will be necessary—he would willingly give it his support. He

FEBRUARY, 1880.]

*Ardent Spirits in the Navy.*

[H. OF R.]

called on any gentleman to point out a practical scheme. He felt indebted to the humanity of the gentlemen who brought this subject under consideration; but he repeated that he wanted them to send to the committee some practical scheme to effect their object, which the committee could report; otherwise all their good and humane intentions would evaporate, and the adoption of these regulations would not be attended with any practical results. No one in the service was now obliged to drink ardent spirits, and he thought its discontinuance could not be enforced with advantage.

Mr. WICKLIFFE said he did not believe that any practical results would be derived from the adoption of this resolution. He did not like the introduction of such topics into this Hall; and, when he said so, he did not intend any disrespect to the gentleman who moved the resolution. He knew (he said) that temperance societies of ladies and gentlemen had been established throughout the country, and he did not doubt the benevolence of their efforts to prevent the use of ardent spirits. He objected to them for one reason only. What (he asked) would the future historian of this country have to say when he should be called upon to write the history of the events of the early part of the nineteenth century? Will he not describe us as a nation of drunkards? That historian would say, to such an extent had this vice been carried, that ladies formed themselves into societies for the promotion of temperance, and for the suppression of the vice of drunkenness. He hoped that to such a description of the state of our society, erroneous in point of fact, Congress would not give its false sanction by legislating on this subject, and especially when no practical benefit can arise from the adoption of this resolution.

Mr. W. moved to lay the resolution on the table, but subsequently withdrew it at the request of

Mr. DRATTON, who said the gentleman from New York (Mr. HOFFMAN) is opposed to the resolution, because he thinks what it seeks for cannot be accomplished. He says, that in the Naval Committee the subject has been more than once considered, and that no practical mode occurred to its members, by which they could put a stop to intemperance in the navy or marine corps; that he deplored its existence as productive of the most injurious consequences, and would gladly eradicate it, if it were in his power to do so. He added, that whiskey, in moderate quantity, was not prejudicial; that it was sometimes necessary to the health and vigor of the seamen; that it ought not, therefore, to be altogether interdicted; and that he placed no reliance in legislation as a remedy for the evil complained of. The surgeons and the officers in the army and the navy tell us, as will be seen by documents which have been laid upon our tables, that ardent spirits never contribute to the health or permanent comfort of the sailor or the soldier;

and that the intemperate use of them, in a greater degree than all other causes combined, occasions crimes, insubordination, punishments, diseases, and deaths. Admitting, then, that a small quantity of strong liquor is not injurious, as it is not beneficial, no reasons exist for drinking it. But it cannot have escaped our observation, that its habitual consumption, even in moderation, too frequently excites a desire for more, and gradually leads to the grossest excess. Much as I deprecate the baleful consequences of drunken debauchery, I entirely concur with the gentleman from New York, in the impolicy of endeavoring to correct it by a prohibitory law, which might raise a spirit of discontent, counteracting the object of the law. I am opposed to sudden and violent innovations. Reformation must commence with the delinquent himself. If, by appealing to the moral sense of the sailor, by diminishing the temptations to which he is exposed, by increasing his comforts, and adding to his pecuniary stipend, an impression can be made upon him, hopes may be entertained that the impression will be durable. Those powerful inducements to human action, self-respect and interest, may thus be brought to operate upon him. And this course, according to the language of the resolution of the gentleman from New Jersey, (Mr. CONDIOT,) is all that is required from this House. That from it beneficial effects may be calculated upon, has been demonstrated by several instances, in which it has proved successful in the army, in the navy, and in our merchant ships.

The gentleman from Kentucky (Mr. WICKLIFFE) is adverse to the resolution, because he conceives it to have originated in temperance societies, or similar associations, from which have issued numerous memorials and petitions of a certain cast, with which our tables have been frequently covered. Sir, no one condemns more than I do the language and the spirit of many of the papers to which the gentleman alludes. I can assure him, that the only persons with whom I have had any communication relative to the subject before us, are physicians in the army and navy and military officers. But were it otherwise—were this resolution pressed upon us by visionaries and theorists, pushing their abstract notions of morality and benevolence to fanatical or ridiculous extremes, if it contained suggestions useful and practical, I would listen to them. Whether we shall be enabled, by any means which we can devise, to effect what is contemplated by the resolution, I will not undertake to determine. It is our duty to make the effort. If we fail, we shall have the consolation of reflecting, that we have attempted to check the progress of a vice which renders its victims not only useless and disgusting, but a burthen upon society. If we succeed, though success may be only partial, we shall improve the intellectual, and moral, and physical condition of our army and our navy. I trust, therefore, that the resolution will be adopted, and that an opportunity will be afford-

ed for making an experiment, by which much may be gained, and from which no possible injury can result.

Mr. HOFFMAN rose to reply, but the expiration of the hour cut short the debate.

SATURDAY, February 27.

*Ardent Spirits in the Navy.*

The House resumed the consideration of the resolutions moved by Mr. CONDUCT on the 25th instant; when

A motion was made by Mr. CHILTON to amend the said resolutions, by striking out from the word "Resolved," in the first resolution, to the end of the last resolution, and inserting the following:

"That the Committee on Naval Affairs be instructed to inquire whether the public interest and the cause of morality would be most effectually promoted, by emphatically prohibiting the use of ardent, vinous, and other fermented liquors in the navy of the United States, by the officers and seamen belonging thereto, or by permitting a continuation of the practice of issuing them as rations in said service.

"Resolved, further, That, in the event said committee shall be of opinion that it is expedient to continue the ration aforesaid, in the naval establishment, they be instructed to inquire into the expediency of providing some mode for procuring the discontinuance of the use of ardent, vinous, and other fermented liquors in the various civil departments, and among the members of Congress, and others holding offices of either trust, honor, or profit, under the authority of the people of the United States."

Mr. CHILTON said that he was proud to hail the present day as a day of "Retrenchment and Reform;" and indeed so many evidences had been given of a disposition to accomplish each, that it would now amount almost to moral treason to dispute the rapid and mystical progress of either. So far as relates to "Retrenchment," upon a mere guess, (said Mr. C.,) I should suppose that not more than one hundred thousand dollars have been expended in arguing the question in its various ramifications, while not one solitary dollar, so far as I am advised, or can understand, has been saved to the Government. I am much surprised, sir, to discover gentlemen, as I humbly think, so vastly inconsistent, and yet so externally sensitive, and ferociously virtuous. These "American system gentlemen," both by precept and example, adopt, in my opinion, a doctrine wholly at war with the provisions of the present proposition, and their former declarations. They have been clamorous for the "Tariff," the encouragement of "Domestic Industry," and an increase of the duties on the importation of articles manufactured abroad. One of the staples of the Western country is whiskey, into which, by distillation, the farmers convert their immense surplus of corn, rye, fruit, &c. To have a market for this article, we must have consumers; to prevent its consumption, no legislative sanction can be adequate. Sir, I am no friend to intemperance, either on land or at sea; but I

think it infinitely better to abandon the votary of intemperance to his fate, than to abridge the natural liberties of man.

I make the remark, and I make it seriously, that legislation upon this subject is as useless as was the attempt of King Canute, who, flattered by his courtiers, commanded the "tide to recede," and was well nigh overwhelmed in its waves, before he discovered his presumption and folly.

[Mr. DEATTON, of South Carolina, here rose, and said that he had heard the amendment read, and it appeared the object of the gentleman was merely to indulge his humor. The Speaker, nevertheless, decided that Mr. CHILTON was in order. Whereupon, he proceeded as follows:]

Mr. Speaker: I must ask the gentleman's pardon for his polite interruption of me, while I was surely not interrupting him. I understood perfectly well what I had intended to say, and what it was in order for me to say; and if the gentleman will look more deeply into the question presented, and anticipate me with slower progress, he will perceive that I am in good earnest, and not playing with either the feelings or time of the House. But, sir, as I before remarked, while we are extending through so boundless a range the work of "Retrenchment," I should be gratified to despatch for its helpmate the fair nymph "Reform." Surely its way is lovely—its dimensions being small, and the company of a twin-sister cannot be unacceptable.

Whether this "reform" in the navy is to be charged under the head of "cleansing the Aegean stable," or whether it properly falls under some other head, I will not pretend to say. But I will say that the legislation is as partial in its effects and character, as was that which I witnessed in this House a few days since; when gentlemen, who even denied me the yeas and nays upon a proposition to "retrench" their own wages, voted to discontinue the humble draughtsman of this House. I am determined in this case, as in that, to try the liberality of gentlemen, and to ascertain whether they are as willing to "retrench" their own allowances of intoxicating liquors, as they are to limit those of others. I venture to predict that in this, as in the instance alluded to, there will be opposition to having the question taken by yeas and nays. It behooves me to show why my substitute should be adopted. It is here attempted to bargain with men to become "virtuous." I am reminded, sir, of a maxim which I learned at an early age, and in which experience has confirmed me, to wit, that "virtue which required to be watched, is not worth watching." Vows to be temperate (where the restraints imposed by public sentiment—by the endearing and heart-rending tears which often flow around the domestic fireside—aided by the claims of helpless innocence)—are all insufficient. If the pride of character cannot avail, money cannot.

The question to agree to this amendment was decided in the negative.

MARCH, 1830.]

Judiciary Bill.

[H. OF R.]

Mr. PEARCE then said, he was prepared to express his opinions on this subject; but as he presumed the House had heard enough on it, he moved that the resolutions lie on the table; which motion was negatived—yeas 57, nays 108.

The previous question was called for by Mr. STERIGERE; and, being demanded by a majority of the members present, the previous question was put and carried; and

The main question was then put, viz: "Will the House agree to the resolutions as moved by Mr. CONDIOT?" And passed in the affirmative.

WEDNESDAY, March 10.

*Judiciary Bill.*

On motion of Mr. BUCHANAN, the House then resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair, and resumed the consideration of the Judiciary bill.

Mr. WICKLIFFE said: The constitution vests the judicial power of the United States in one Supreme Court, and in such inferior courts as Congress, from time to time, may ordain and establish. Whatever inferior courts Congress shall ordain and establish, should alike extend themselves to the whole Union. The system should be one system for all the States, uniform in its character, and harmonious in its action.

At the commencement of the Government, uniformity in the organization of the judiciary department was preserved throughout the then thirteen States; and, in every change of the system since made, uniformity has been sedulously preserved.

For a moment allow me to call your attention to the history of the judicial system of the United States, as illustrative of what I have said upon this subject:

In 1789, Congress, in obedience to the mandate of the constitution, organized the Supreme Court, and established the district and circuit courts in the several States, and imparted to them severally most of that jurisdiction which they have since exercised. A district and a circuit court was established in each State, and the Supreme Court was constituted of six justices. The Union was divided into three circuits, the eastern, middle, and southern circuits. Two of the justices of the Supreme Court were required to hold, jointly, two terms in each year, in each of the States, besides two terms of the Supreme Court, at the seat of Government. In 1792, the justices themselves, in a memorial to the President of the United States, complained of the onerous duties exacted of them under the act of 1789, and declared their inability to perform the labor which that act imposed upon them. This memorial was made the subject of Executive communication to Congress, and, in that year, instead of three circuits, six were created, and one justice of the Supreme Court was required, in conjunction with the district judge, to hold the circuit courts in each State, twice each year.

Vol. X.—43

At that time, sir, our population did not exceed six millions; our Union was composed of thirteen States; the banks of the Ohio formed, in fact, our western boundary. The Congress of 1789 did not then think six judges of the Supreme Court were more than necessary to the discharge of the high duties confided by the constitution and laws to that tribunal. The judges themselves, and the Congress of 1792, believed that the duties imposed by the judiciary act of 1789 were too onerous; and they divided the labor of the circuit duties. From that day to this I have never understood that those justices had not enough to do. Indeed, I have often heard it said they had more labor to perform than they could well discharge, in justice to themselves and to the country. Now, sir, when the number of States has nearly doubled; when our population has increased from six to twelve millions; when our commerce has extended itself to every country and clime; our relations as political communities have increased in importance, and every day becoming more and more delicate; the gentleman from Pennsylvania, (Mr. CRAWFORD,) is ready to start these judges upon a judicial race over twenty-four States twice in each year. The gentleman from New York, (Mr. SPENCER,) conscious that his friend from Pennsylvania has exacted more than human labor can accomplish, stops the judges at the limits of Alabama, Mississippi, and Louisiana, and proposes to give to these States a provincial judge, a judge with full and ample salary, but he is not permitted to take his seat upon the Supreme Bench, that is, the judicial *sanctum sanctorum*, which must not be contaminated by a western man. The one proposition is, of itself, utterly hopeless of success, and the other cannot be regarded, though not so intended, but as an insult to the States who are thus marked by the exclusion alone as applicable to themselves. A system something like this of the gentleman from New York, was reported by the judiciary committee, in 1828. That system, however, allowed the provincial justices, when it should please God to remove by death any of the then justices of the Supreme Court, to take the place thus vacated. It met with one universal condemnation from the nine western States, and was by the committee abandoned, as utterly offensive to those whom it proposed to benefit. Such, I have no doubt, will be the fate of so much of the amendment of the gentleman from New York as proposes to send to these three proud and gallant States a provincial judge.

I proceed, sir, with the history from which I have been diverted in a moment's reply to a part of the opposition to the bill under consideration.

The system remained under the organization of 1792 until that eventful period in the political history of our country, the month of February, 1801. The party then in power, but which was soon to retire, under the indignant frowns of an insulted and abused people, looked to the judicial department of our Government as a

point of safe retreat—a point from which they could renew their assaults upon their conquerors, the people; and succeed in establishing principles in our Government, which the constitution did not warrant, and which the people abhorred.

In that year, the judicial system of the United States was changed. The Supreme Court was to consist of the six justices then in commission, to discharge appellate duties only. Thus separated from the States, and the people of the States, the judges were destined to become the mere engines of power, devoted to the establishment of a great consolidated government, and regarding the States as mere corporate existences, deriving their power from, instead of imparting it to, the General Government.

The better to effect this grand purpose, six circuits were enacted, and three circuit judges in each circuit were appointed, besides the district judges then in commission.

It will only be necessary to look to the then state of the times, and to the names of such judges as were commissioned, some in the hour of midnight, to justify the inferences which I have made.

This system did not require the test of experience to satisfy the American people of its enormity—its want of adaptation to the system of government, such as the Union was and ought to be; and so soon as they could lay their hands upon it, they erased this federal citadel to the foundation, and rebuilt that of 1789.

Between 1789 and 1807, Vermont, Kentucky, Ohio, and Tennessee had been admitted into the Union, and, in the latter year, (1807,) a seventh justice was added to the Supreme Court, to reside in the seventh circuit, and to hold circuit courts in the States of Ohio, Kentucky, and Tennessee. Vermont was added to the eastern circuit; and thus the system of 1789 was made to expand itself, and to embrace these four new States, and has continued from that time to the present moment.

It has given to our nation a character, at home and abroad, for judicial intelligence and weight of character, which the gentlemen opposed to this bill have been emulous of each other in praising. I will not detract from the just claims of our national judiciary, nor will I speak of it irreverently.

I have no incense to burn at the altar of any department of this Government; and if I had, it would not burn at that of the judiciary.

That department, like every other, is filled by men liable to err, and responsible to the people, whom I regard as the supreme power in this Government. To them and to their will I acknowledge my obligations; and, in the execution of that will, as their representative, I will speak of the other co-ordinate departments of their Government as I think they deserve.

This is in theory, and should be in practice, a representative Government, in all its departments. The Executive, in his appropriate

sphere, is no less the agent or representative of the people, than the members of this House, though his functions are different. The judges must be regarded as the agents or representatives of the people, in the discharge of their functions in the judicial department of this Government.

The doctrine which repudiates the idea of representation in the judicial department, is anti-republican, is at war with the genius of our institutions. Gentlemen startle at the idea of judicial representation, and say they do not comprehend it. If they do, they have not dealt fairly by those who believe that there ought to exist in that, as in every other department, the representative principle.

The member from New York (Mr. STROBE) seems to be astounded at its mention. He never before heard of the idea of "judicial representation." In his mind, it must mean, if I have his words correctly, the representation of the prejudices, the passions, and the factions of the people. There is a class of politicians in this country who have always, when speaking of the people, supposed them to be governed alone by prejudice, passion, and faction. I will not say that the gentleman belongs to that class, but he will pardon me for entertaining an opinion more favorable of the intelligence and virtue of the people. They are capable of thinking, reasoning, and acting, free from prejudice or passion.

The other gentleman from New York (Mr. SPENCER) repudiates, in strong terms, as wholly improper, the idea of preserving in our judicial department the representative principle. Indeed, he seems to go further upon this subject than his colleague. He would have the judge unknown to the people, and the people unacquainted with the judge. He would have the judge, in order to preserve him from the contaminating influence of the people among whom he is to administer the laws, reside as far as possible from them, to be sent among them at a distance from where he resides.

If these views be sound, if there be any thing in them consistent with propriety, and in harmony with the principles of our Government, it would be well to test them by experiment. Let us disband our own judicial corps, and call upon the chancellor of England, the judges of the courts of King's bench and common pleas, to visit us, and decide upon the rights and liberties of our citizens. They would be as likely as any set of men, if not the most so, to preserve untarnished the new and pre-eminent qualification of a judge, a total ignorance of the people of the United States, and consequently the genius and spirit of their institutions, which depend upon public opinion for their excellence and pre-eminence of character.

For my own part, I am wholly averse to the idea of importing judges as we import our cattle, under the hope of improving their breed.

When my rights are involved in a judicial contest, I like to know something of the men who

MARCH, 1830.]

*The Tariff.*

[H. OF R.]

are about to decide upon them. When a judge is known to the people among whom and for whom he administers justice, to be a man of high character, undoubted integrity, and legal attainments, his decisions give satisfaction, and inspire confidence in the public mind. Not so with a judge of whom the people know nothing.

I will tell the gentlemen what I understand by judicial representation.

In the first place, as this is a representative republic, I would not have upon the bench a monarchist in principle. I would have the judges responsible to the people; and, if I were about to form a constitution, I would limit the term of their office, and remit them to the appointing power, at stated periods.

To come to the question now under discussion: In the organization of a court, such as that of the Union, whose jurisdiction is defined by the Constitution of the United States, whose powers are co-extensive with the boundaries of twenty-four distinct and sovereign States, the same system should be extended to each State. In making the appointments to office, I would look to the various geographical divisions of these sovereign communities, and I would make the selections from among the citizens of those States, with a view to give to each its due and relative proportion and weight in the judicial department. To illustrate my idea, I would extend the present judicial system to those six, I might say nine States, to which it has not been extended. I would give to those States, when divided into proper circuits, a judge selected from among the citizens of those States, to reside within the respective circuits, and administer justice in the inferior courts, and to repair, once in each year, to the seat of Government, bringing with them each a knowledge of the local laws and judicial decisions of the respective States, and, if gentlemen will have it so, possessing, in common with the people, those principles of government, and attachments to our institutions, so necessary to make a man either a good politician or a sound judge.

To illustrate my idea of judicial representation further, I need only advert to the fact that your court is now composed of seven judges—six of whom reside on this side the mountains, and administer justice in courts of original jurisdiction in States containing a population of about seven millions, while nine States, with a population little short of five millions, is left with but a single judge, and he confined to three out of the nine States.

If the honorable gentleman will, for the sake of the argument, imagine the entire vacancy of the Supreme Bench, and that the President would be weak or wicked enough to appoint the whole seven from the State of Kentucky or Ohio, and the Congress of the United States unjust enough to say, by its legislation, that, in the six New England States, and in the "great State" of New York, there should not be held a circuit court, they will then have a just con-

ception of my idea of judicial representation. My word for it, sir, if that were the case, and it were necessary to extend the system to these States, to increase the number of judges to nine or ten, this bill would pass.

I put it to the candor of gentlemen to say, if it is consistent with their own notions of equality in the States, with their own notions of justice to the people west of the Alleghany, that the present system, limited as it is, shall remain when these States, in their sovereign character, present their high claims to the Congress of the United States, demanding the extension of this system to them, and claiming, as they have a right to claim, an equal participation in the administration of this Government in all its departments.

THURSDAY, March 11.

*The Tariff.*

The House then resumed the consideration of the following resolution, submitted yesterday by Mr. ANDERSON:

"Resolved, That the Committee of Ways and Means be instructed to bring in a bill allowing a drawback of nine cents per gallon on all rum distilled in this country from foreign molasses, when such rum is exported to a foreign country."

Mr. ANDERSON said he was aware that it was the general practice of this House to instruct its committee to inquire into the expediency of adopting a measure, rather than to instruct them to bring in a bill; but as the Committee of Ways and Means had brought in a bill embracing the subject matter of this resolution, and as that bill was rejected by the House, this, or any other committee, he apprehended, would not deem it expedient to act again on this subject, unless they were under the especial direction of the House; and Mr. A. deemed it due to the House to say, that, if the subject of this resolution had been presented, unconnected with other matters, and had been acted on by the House, he should so far respect such decision, as not again to agitate the subject this session. But, as many gentlemen saw, or thought they saw, objections to some of the items of that bill, and voted to reject the whole, who, Mr. A. believed, were disposed to sustain this resolution, he submitted it in this shape, deeming it as well to take the sense of the House directly on the proposition to bring in a bill, as to take the opinion of the House after a bill is introduced.

The tariff of 1828 (said Mr. A.) proposed to encourage American manufactures, and to protect domestic industry. This resolution relates immediately to the manufacturer, and proposes to restore him in part to the situation in which that tariff found him, and, if adopted, will not only aid the manufacturer, but various other important branches of American industry. The resolution does not place this class of manufacturers in a situation as good as they



were before the passage of the law, for it still leaves them oppressed with the whole of the enormous increased duty on the raw material used by them, which must still be paid if the article is consumed in this country; but as it will open the foreign market for their manufactured goods, it will be a great relief both to this class of citizens and to the commercial interest of our country. Before the passage of the tariff of 1828, the duty on molasses was five cents per gallon; then a drawback was allowed of four cents on each gallon distilled into rum, and sent out of the country. The duty is now ten cents per gallon; and this resolution proposes to allow a drawback of nine cents per gallon on all rum made from this molasses when it is exported, still having the double duty to be paid on all that shall be used in this country. I cannot conceive what rational objection can be urged to the re-establishment of this drawback. We grant a debenture equal to the duty on the same article distilled by foreigners and in a foreign land, while, by our law, as it now stands, we refuse it to our citizens, and yet we please ourselves with the idea that we are protecting American industry. When this drawback was repealed, it was done with the expectation of helping the whiskey distiller. It was thought that it would increase the demand and price of whiskey, and thereby aid the grain grower. We have now tried the experiment nearly two years, and I believe all are convinced that its expected benefits have not been realized. Does whiskey find a more ready sale or better price than it found before the tariff of 1828? Or has the demand and price of grain improved since that period, in consequence of this restriction on the distillation of molasses? I believe, sir, if we take every price current which has been published since June, 1828, we shall find that neither whiskey nor grain has improved one cent, but, on the contrary, both have fallen greatly in price. If then, the repeal of this drawback has not answered the expectations of those who voted for it; if it has not benefited the interest it was thought it would subserve; if it does good to no one, and a positive injury to some, why should we not restore the protection, and again extend to this class of our manufacturers the encouragement we profess to extend to all others. If we wish to introduce the more general use of whiskey, and thereby aid so much of the grain market as is used in this article, it is certainly expedient to open a passage through which this rum may go out of the country, and give place to the consumption of whiskey. The effect, and only effect, this repeal of the drawback has, is to encourage and aid the foreign distiller, at the expense and to the destruction of the American distiller, to confine this rum to our own market, force it to compete with our domestic spirit made of grain, and, so far as this competition can go, to destroy the market for whiskey at home. If we honestly intend to encourage domestic industry, and enable our manufacturers

to compete with foreign manufacturers, we ought to allow our citizens to obtain the raw material on as good terms as the foreigner. Let our duties on imports be what they may, it is for the interest of the manufacturer and for the country to encourage the export of all such imports as by our labor and skill shall be made of double value to the foreign purchaser; and the export will not be so well encouraged in any way, as by allowing a return of the duties paid on the raw material when it is exported in the manufactured article. While we have commerce, cargoes must, in some way or other, be made up; and as long as it is necessary for a profitable voyage to make a part or the whole of a cargo of rum, so long will rum be obtained, and continue to be an article of merchandise.

It is not merely for the distiller that we should pass this resolution, but for other extensive branches of industry that will receive great relief and support from it. Every branch of industry connected with the West Indian trade will be relieved, revived, and protected by it. And let me here remind the House, that we never had cause of complaint, and never, so far as my knowledge extends, have complained of this trade. It is a trade of fair, free, unrestricted exchange. It is a market for any thing we choose to send out; and many articles that now form a valuable part of the exports of our country would be nearly, if not quite, worthless without this trade. We can in this market exchange what is of little or no value to us here, for articles of great value to us—articles that not only administer to our wants and comfort, but out of which, if we do not tie up our hands by restrictions and prohibitions, we can make an important and valuable article of export. Sir, this trade is worthy of all encouragement. It gives life and employment to a vast amount of the labor and industry of this country. On this trade the lumberman, millman, ship carpenter, fisherman, and sailor are almost entirely dependent for employment; and there is no class of men in this country more deserving of our protection than these, if severe, hardy, and unremitting labor can entitle them to our protection. Sir, the life of the northern sailor and fisherman is too well known to require any comments from me. Hardier beings never floated on the ocean. But the life and hardships of the lumberman, I believe, are known to very few on this floor. We should think an army making a winter campaign in the storms of our northern frontier entitled to our sympathy and applause for the sufferings and hardships that must unavoidably be endured through the severity of winter. Trying and severe as may be such a service, it is no harder than the lumberman endures as regularly as the winter comes. In November, or the first of December, these men go into the forest with their teams and provisions, construct a rude camp, barely sufficient to break off the wind, while they sleep on a bundle of straw, or as often on the boughs of the pine, and work from daylight

[MARCH, 1830.]

*The Tariff.*

[H. OF R.]

until dark, in the snows of the forest, until the rivers open in the spring. When the snow melts, and the ice of the streams breaks up, they omit their lumber to the river, and close their winter's work with a labor that no men at those accustomed to repose comfortably on snow-bank could endure for a single week. Day after day, and week after week, these men are immersed in the river, when the water is as cold as ice and snow can make it; their garments are a perfect sheet of ice, and the comfort of a dry jacket is unknown to them; and yet you find them hardy and healthy men. Hundreds may be found now engaged in the forests, with constitutions firm and unimpaired, who have, for more than forty winters in succession, been engaged in this service. I believe, sir, that you will not find, in any other description of mills, such constant, unceasing labor as in our lumber mills. The saw is running continually day and night—the millmen relieving each other at six in the morning and six in the evening, as regular as a watch at sea, and the labor is as uninterrupted and unceasing as the motion of the current that turns the wheel. This, sir, is the labor and these the men that any relief given to the West India trade will aid; and I ask you if these men, who breathe the pure January northwester, are not as valuable to you in peace or war, and as much entitled to your consideration, as those who are inhaling the confined atmosphere of a crowded manufacturing establishment?

No article of export employs so much tonnage in proportion to its value as a West India cargo, and the cargo obtained in exchange. A vessel that will carry out a cargo of cotton or manufactured goods, worth from fifty to one hundred thousand dollars, would be fully freighted by one-thirtieth or one-fiftieth of that sum in lumber, and so with a return cargo of molasses; and yet she will employ as many seamen, and give double the employment to landmen, who live by loading, discharging, and tending on vessels, for she will make two voyages to the other's one, and add as much to the naval strength of the country as the rich freighted ship; and all her repairs are made in this country, the West Indies being more expensive ports to repair in. Not so with the European trader, she obtains her repairs and equipment abroad; for, by reason of the enormous duties imposed on every article necessary to the outfit of a ship, it is for the interest of our merchant to refit and equip his ship abroad.

This material, used by the distiller, is as much the produce of our soil as the whiskey which the farmer gets in exchange for his grain, the produce of his soil. We exchange our lumber, which is the fruit of our labor, for molasses; and without this exchange the whole of our industry engaged in this branch of business must stop. In the prosecution of this trade, the grain grower is more benefited than he can be by making his grain into whiskey; for, while the lumberman and the millman are

engaged in procuring and manufacturing the outward cargo, the mariner in transporting it to market, and bringing home the return cargo, the distiller in converting it into rum, and the mariner again exporting this rum abroad, they, and the ship carpenter, and their dependants, are, of necessity, consumers of the grain raised by other hands. Some of this industry has been diverted already by the operation of the tariff, and been turned to raising grain; and unless you restore this drawback, a still greater number will be forced from their accustomed employments, and, as their only alternative, must go to foreign countries, or become agriculturists; and, instead of effecting the great object for which we started, to draw off numbers from agricultural pursuits, and increase the demand for agricultural products, our legislation will have exactly the contrary effect. Such are the connection and dependencies of commerce and agriculture on each other, that any check or embarrassment thrown upon the one, is inevitably felt by the other. Our commerce first felt the tariff of 1828; it bore hard on this important branch of our wealth, industry, and strength, from the very day of its operation; and, now when commerce is sinking under this load, agriculture begins to feel the blow. Some of the shackles on our commerce must be taken off, and this drawback, trifling as it may seem, will save to the nation thousands of tons of shipping, if not millions of capital. Freight, we all admit, is the soul and life of commerce; and it is our duty, while we regard its prosperity, to give every facility to multiply freights at home, and to obtain them abroad.

Grant this drawback, and you give to your vessels additional freights, by making a valuable article of export of your imports. And as it will enable you to increase your imports in this trade of exchange, so it will greatly increase your original export, and in all its operations infuse new life into this depressed trade.

Mr. POLK moved to amend the resolution, by adding, "and to allow also a drawback of four and one-half cents per square yard on foreign cotton bagging, exported either in the original packages, or around the cotton bale, to any foreign country."

Mr. P. said, in offering this amendment, he did not intend to indulge in any general discussion of the principles of the tariff. A very few remarks in explanation of the reasons which had induced him to offer it, was all that he then deemed necessary. The resolution of the gentleman from Maine proposes to instruct the Committee of Ways and Means to bring in a bill to allow a drawback of nine cents per gallon upon the exportation of rum distilled in the United States from foreign molasses. The reason given why this would be proper, is, that the navigating interest of the East, as well as the manufacturer of spirits from this foreign material intended for exportation, were oppressively burdened by the imposition of a duty of ten cents per gallon, imposed by the tariff of 1828,

on the exportation of foreign molasses. If this be a satisfactory reason why a drawback should be allowed upon this article, then he thought it could be clearly shown that, upon the same principle, a drawback should be allowed on the exportation of foreign cotton bagging wrapped around the cotton bale. The two articles stand upon the same principle; and he could see no reason for allowing drawback in one case and refusing it in the other. Foreign molasses, upon their importation into the United States, were subject to pay a duty under the present tariff of ten cents per gallon. The molasses were distilled in this country into spirits, and in that state exported to foreign countries for market. The gentleman from Maine proposed, upon the exportation of the spirits thus made from molasses, to allow a drawback of nine cents per gallon, leaving in the Treasury one cent per gallon of the duty levied upon the importation of the molasses, to defray, he supposed, the incidental expenses and charges at the custom-house. Now, did not the article of cotton bagging stand precisely upon the same principle? That article, upon its importation into the United States, was charged with a duty, under the tariff of 1828, of five cents per square yard. When it was received in this country, it was used almost exclusively by the cotton planter in baling and preparing his cotton for market. It was again exported wrapped around the cotton. It was not consumed in the country any more than the molasses distilled into spirits and exported were. His proposition was to allow to the cotton planter, upon the exportation of his cotton bales, a drawback of four and a half cents per square yard on the bagging with which his cotton was wrapped for market, leaving in the Treasury half a cent per square yard of the duty originally paid upon its importation. The East, or at least a portion of the East, complained that the duty on molasses was onerous, so much so, that it prevented its distillation into New England rum for exportation, and thereby affected the shipping interest; and that, therefore, a drawback of the duty should be allowed upon exportation. The South might, with equal reason, at least, complain that the duty of five cents per square yard on cotton bagging was an onerous and unnecessary tax upon the cotton planter; that, in consequence of it, he was compelled to pay five cents per square yard more for his cotton bagging, than he would have to pay if the duty was not levied; and that, therefore, upon the same principle, a drawback should be allowed to him upon the exportation of that article. If a drawback upon rum was allowed, New England would be relieved upon one item of the tariff, and could again, the gentleman from Maine has said, engage in the molasses and lumber trade. If the drawback which he proposed on cotton bagging was allowed, the effect would be, that the cotton planter could buy his cotton bagging for four and a half cents less per yard than he had now

to pay for it. The only difference between the proposition contained in the resolution of the gentleman from Maine, and the amendment which he had offered, was, that the one was intended to relieve a portion of the East, and the other a portion of the South and Southwest, from a very small portion of the oppressive and unequal operation of the present tariff system. He thought, therefore, that molasses and cotton bagging, however strange the association might seem to be, should not be separated so far as the proposition of drawbacks was concerned. As the object was to reduce duties on one for the benefit of one section, a correspondent reduction should be made on the other, for the benefit of another section. This was but even-handed justice, and he was willing to refer both propositions to the Committee of Ways and Means together.

He was (he said) upon principle opposed to the whole system of the protecting policy called the tariff; but, as he had said in the outset of his remarks, he would not now go into the general discussion of the question. He had submitted this single proposition at this time, because it rested, as he had endeavored to show, upon the same principle with that offered by the gentleman from Maine; and because, if the friends of the system would not now modify it generally upon the principle of mutual concession and compromise, between conflicting interests of different sections, they would, he trusted, agree to alleviate the oppressive operations of some of its details. He implored the friends of this system in this Congress, to consider deliberately the present excited and agitated state of the country upon this subject; to give a listening ear to the long-neglected complaints of the suffering South, and alleviate their burdens. He appealed to them to know if it was not for the permanent interest of all sections to modify the system and quiet the public mind. By adopting the single proposition he had offered, they would, he knew, go but one step towards effecting so desirable an object, but it would be some manifestation of a disposition, on the part of the majority in this Congress, to afford at least some alleviation.

Mr. MALLARY said he was fully aware that, whenever the tariff, in any shape, came before the House, much excitement prevailed. Whatever might be the tendency of the subject itself to produce this effect, he was determined that no excitement should be justly chargeable to any observations or remarks he might be required to make. As to the resolution introduced by the honorable gentleman from Maine, (Mr. ANDERSON,) Mr. M. said he would make a brief remark. It requires the Committee of Ways and Means to bring in a bill to allow a drawback on spirits distilled from molasses, when exported. It is well known that this subject was discussed, considered, and decided in 1828. Congress determined that no drawback should be allowed. It is also well known that he was opposed to that decision at the time. He believed that the

MARCH, 1880.]

*The Tariff.*

[H. OF R.]

effects would be injurious to some interests, and beneficial to none. But the House, after the fullest consideration, in its wisdom determined otherwise. A majority decided that sound policy, the prevention of frauds on the revenue, the promotion of the agricultural interest, required the drawback should not be allowed. It was thus fixed: it was thus settled. No reason is now offered for a repeal, that was not fully urged against the passage. It was as well understood then as now. No changes have taken place which were not fully anticipated. Unless a general understanding prevailed to make the change without involving any other provision of the tariff, he was in favor of no alteration. If a general disposition did exist to make the proposed change, the proposition of the gentleman from Maine would probably have his support.

But (said Mr. M.) what is the consequence? What immediately follows? The proposition of the gentleman from Tennessee, (Mr. POLK.) Mr. M. said he had been in favor of the duty on cotton bagging. He had supported that duty for the purpose of affording aid to an important domestic manufacture. The reasons for imposing that duty certainly sustain it at the present time. There is no change in the necessity or policy. In establishing a general tariff, it could not have been reasonably expected that every branch of industry would derive all the aid that was anticipated. The manufacturers of the coarsest kind of wool complain. No doubt some had been injured. He had been urged to attempt to obtain some change in the duty on that raw material. At the time of the passage of that tariff, he was opposed to that duty on such wool as was not produced in the United States. A majority of Congress considered that the duty ought to be imposed. It was done. He would let it remain. Many were opposed to the dollar minimum. The effects were pointed out. It was fully examined and adopted. He was unwilling to disturb it. Many were opposed to the additional duty on molasses. A majority decided otherwise. He was opposed to a change. The whole tariff system is, and must be, founded on a liberal compromise among the numberless interests of this extended country. In passing the tariff of 1828, they were all consulted. It was passed on that ground. Without a just and liberal compromise, no law, involving a variety of the great interests of the country, could ever be adopted. He had no doubt the tariff of 1828 had operated in general most beneficially. But its benefits will be greatly diminished, if not wholly destroyed, by perpetual agitation. Continual attempts to change its details, before its effects are fully developed, will do a thousand times more injury than all the benefits anticipated from any proposed alteration. It was due to all whose interests were dependent on the policy of their Government, to be allowed some little repose—not to be continually alarmed for their safety. He could not consent to the proposed alterations.

Mr. MARTIN, of South Carolina, said, this proposition to allow a drawback on cotton bagging, had come on very unexpectedly. It was one he would not have made, and he did not believe it would have been proposed by any of his colleagues. It is a small, a very small business, (said he,) compared with the great drama in which they wished to take a part. But, as it had been made, he should offer no apology for intruding himself on the House. It would be expected, he presumed, that he should say something; but, independently of that expectation, he obeyed the suggestions of feelings and duty, in the course he was about to pursue. It must be admitted (he said) that the gentleman who had offered this amendment, occupies neutral ground; he stands between the manufacturers and those they would make the consumers of their bagging. He cannot be looked on in any other light than as one wholly disinterested; and so far as his object be to relieve the South of the least of its oppressions, it was, and should be, properly appreciated.

Of all the duties imposed by your tariff, sir, (said Mr. M.,) that on bagging is the most iniquitous and untenable. The facts bear me out in this assertion; they are incontrovertible. I repeat now what I said in 1828, when the tariff was under discussion. I told gentlemen they might impose the additional duty on bagging, but they could not justify it on their own principles or pretences. They did not attempt to answer the arguments urged against the increase of duty, yet they passed it, for the same reason they would have passed any other amendment, the operation of which would have been the advancement of certain portions of this Union, at the expense of other parts of it. Yes, sir, there was something due to the West for its loyalty to this idol, nicknamed the "American system;" and those who were disposed to reward idolatry, bestowed their blessing, in the form of an increased duty on bagging. Or it may be that some were disposed to punish those who consume the bagging, on account of certain very obnoxious votes given on other parts of the tariff bill. Of such, we ask nothing; and to such, we have no concessions to make. The course we pursued on that subject, has been admitted to be legitimate in legislation; I will not say since its commencement, but certainly since our acquaintance with it. How far their supposed course (he would not charge it on them, he might do them injustice) can be sustained by principle, he would not now stop to inquire.

It is charged against the South (continued Mr. M.) that we are too easily excited. Have they not sufficient cause to be excited? Do not their first and last dollar find their way to Northern pockets, without even touching at your Treasury? And what produces this state of things but the great scheme of depredation, of which this subject forms but a small part? It would be out of order, sir, to go into a discussion of the whole tariff; if it were not, he

could tell gentlemen why they were excited by reciting the misdeeds of this House. He hoped, however, an opportunity would occur, when he could not be restrained in the discharge of a duty he held sacred.

What claims has the manufacturer of bagging to the protection of Government? What are their numbers, the amount of capital invested, or the product of their factories, no one will pretend to assert. It is carried on to a very moderate extent in Kentucky; it is still more limited in New Jersey; he knew of no other establishments, though possibly there may be some on a small scale in Ohio or Tennessee. So little claim has the manufacturer of this article on the protection of the Government, that it cannot be justified even on the doctrines of the most absurd, preposterous, and extravagant advocates of the tariff. A new scheme must be organized, and new theories must be manufactured, to give protection to this article the color or semblance of plausibility.

It is important to the interest and prosperity of the nation, say gentlemen, that her supplies should be drawn from her own resources. And pray, sir, (asked Mr. M.) what has the nation, as a nation or a Government, to do with the growth of cotton, or the manufacture of bagging? A small portion of your Southern Atlantic States only grow cotton, and no others can grow it. They have not asked your protection or your aid in any shape: they deprecate your interference with their concerns as an officious intermeddling, and an unconstitutional exercise of authority given you for other purposes. If they are content to receive foreign bagging as they have done, and pay for it with their own money, not with funds subtracted from the Middle or Northern States, by what authority do others interpose, or for what purposes? Not for national purposes, for it is not a national affair—not for our benefit, for you do us positive injustice and injury. I was wrong, sir, when I said the cotton business was not a national affair. It has been made so of late by the pernicious legislation of this House. It is the first and greatest resource of the Government in paying its debts, and supporting its civil list, and sustaining all its institutions. Yet the great and leading object of gentlemen in this House is so to embarrass its culture, and obstruct its transportation to a foreign market, as to compel us to suffer it to be manufactured at home; and this is what they call a "home market." Yes, sir, by paralyzing the industry of the South, and obliterating its capital, the market of the United States, any part of which is glutted by a single ship's cargo, and which consumes at most not more than one hundred and fifty thousand bags per annum, is to be converted into a market for the whole product of the United States, which now averages seven hundred thousand bags! And do gentlemen really expect us to submit to such a state of things, without being "excited?" If they do, they know less of us than we had supposed.

To sustain the proposition I have just stated, as one on which the advocates of the restrictive (I might say the non-intercourse) system rely, they tell you it follows as a consequence, that the interest of a few, or of one particular section, must yield to that policy which promotes the general good. He denied the application of any such doctrine in a Government like ours, except it be on those subjects upon which the power to legislate has been conferred on Congress. But, without discussing that question now, it was easy to show the absurdity of pretending to apply such a rule to the impost laid on bagging. No, sir, it is the converse of the proposition which was enforced when this duty was laid. Kentucky alone manufactures—for the rest are not sufficiently extensive to be mentioned—while there are no less than eight States who consume, not her manufactures, but the European fabric, if they can be allowed to do so: and to four of those States, it is a fact known to all, that the article from Kentucky cannot find its way. It can neither bear transportation over the mountains, or down the Mississippi, and thence, through the Gulf of Mexico and around the coast of Florida, to the Southern Atlantic States, at a price which will enable the holder to bring it into competition with foreign bagging. No one, however extravagant in support of the tariff, or any branch of it, will deny these facts. One who has not devoted some attention to the subject, could scarcely believe that such a state of things existed in any part of this country. But the worst has not yet been told. The gentleman from Kentucky, (Mr. CLARK,) on whose proposition this duty was increased in 1828, was himself examined before the Committee on Manufactures; and from his evidence it will be seen that the factories in Kentucky already made better bagging than is imported, and that unless the crop of hemp be short, which compels the manufacturer to give a high price for the raw material, they can drive the foreign fabric out of the New Orleans market, or at least they can procure a better price than is paid for foreign bagging. Here, then, facts are at war with theory, and principle abandoned in practice. Who, sir, that has ever heard or read three distinct sentences, written or spoken by a manufacturer, or an advocate of the tariff, will not recollect that one of those sentences consisted of a declaration that, if you would protect their factories until they passed from infancy to maturity, and obtain possession of the market, they would ask it no longer? Then it was a millennium was to be produced in the commercial, manufacturing, and agricultural world. Yet, with the capital, and all other facilities to make a better fabric, and in the possession of the market, to the exclusion of foreign bagging, the factories of Kentucky were to be protected—I will not say it was no protection, but they were to have a bounty; it is nothing less than a bounty, let others call it by what name they may. With the possession of the New Orleans market, and wholly unable

MARCH, 1830.]

*The Tariff.*

[H. OF R.]

to reach the Atlantic markets, who can be so rash as to attempt a justification of this duty? But the manufacturers of Kentucky are scarcely blamable. It was a day appropriated to the distribution of Southern capital and Southern labor, by a species of legislative lottery, and they had, perhaps, some claim to a share in the scheme, as an equivalent for the service they had rendered. How far the people of Kentucky have been benefited by the drawing of this lottery, is a question upon which they have not been very communicative.

Trifling, sir, as this duty may appear, it is one of the highest among your imposts. The duty is five cents on the square yard, but the width of bagging makes it about six cents the running yard. This, as an *ad valorem* duty, will vary from thirty to fifty per cent. The revenue collected by the Government in South Carolina, on this duty alone, is more than all the taxes paid for the State Government, if you exclude that collected on a particular species of property: and it is nearly one-fourth of all collected from every source of taxation for State purposes. And for what purpose is this extortion practised? For the protection of the manufacturer of Kentucky? No, sir; I have shown he is not benefited by it. Is it to pay your public debt? No, sir; the design most prevalent is to divert the funds of the Government from that purpose. Is it levied for the support of your Government and its institutions? No one will pretend that such is the object. With what view, then, in the name of justice, was it originally imposed, or is it now continued? It was first used, sir, as a punishment for the pertinacious resistance of the South, and is now continued as a fit source from which to construct roads and canals. I have said this much in relation to the imposition of this duty and its operation. I will now speak of the amendment, proposing to allow the drawback on bagging re-exported, whether in bolts or around the cotton. What do we understand by a drawback? It is paying to the shipper, by the Government, whenever he exports a foreign article, the same or a lesser duty than that received when the article was imported into the country. It has for its justification satisfactory reasons; it is not the policy of the Government to retain the duty on an article which is neither used nor consumed; and the repayment of the duty is often an inducement to re-ship the article, thus giving employment and activity to capital, and aiding in the navigation and commercial operations of the country. Another and important feature in this policy is, that when an article is imported, and manufactured or converted into a different fabric, and re-exported, by paying back the duty, encouragement has been afforded to the carrier, the capitalist, and the domestic industry of the country. These, I take it, are the grounds of the policy. Where the material is exported in its original state, there are few or no facilities for committing frauds: nor are these to be apprehended, with

the guards adopted, even where the article has changed its character. Salt pays a duty of twenty cents on every fifty-six pounds; yet, on the exportation of fish, packed in foreign salt, the duty on salt is repaid to the exporter of the fish. Bagging is imported, and pays a specific duty. It is used for packing cotton, and immediately re-exported. Is not the analogy so striking as to be irresistible? If there be any distinction, is it not in favor of allowing the drawback on bagging? Both are imported, and the duties paid. One is used in consuming the enterprise and industry of the fisherman, the other in preserving the fruits and labor of the agriculturist. Both are necessary to the objects in view, and both seek a foreign market.

Thus far the claims of the two articles to a drawback are equal, unless, indeed, the agriculturist, the husbandman, who gives life and vigor to all our pursuits, be less entitled to the favor and protection of the Government than the fisherman, whose claims, by the by, it is not my purpose to undervalue. But here the claim to a drawback on the bagging rises superior, because, by reason of its identity, it affords fewer facilities for the commission of frauds on the revenue. It is imported in bolts, and undergoes no change, except that of being cut into pieces of four or five yards, and made into bags for the reception of the cotton. You have scarcely an appraiser in a custom-house of the Government, who could not be able, after the first comparison, to distinguish between the domestic and foreign bagging. But as to the use of foreign salt, that must depend on extrinsic evidence—on affidavits. Now, without intending the least imputation on those who receive that drawback, I cannot but say that the temptation and the facilities to commit frauds on the Government are greater, and more numerous, than would exist in regard to bagging. I appeal to the chairman of the Committee on Manufactures, (Mr. MALLARY,) who has just taken his seat, to name, if he can, a single article, in the whole range of our commerce, which undergoes any change, with which it would be so difficult to practise a fraud in claiming a drawback on its exportation, as with bagging. Let him name it, if there be one in his knowledge. But says that gentleman, the tariff was a compromise! Truly it was a compromise. But between whom was this arrangement effected? The Southern States, whose capital and labor the parties to it were dividing, and whose enterprise and industry the same parties were appropriating to their own use, had no voice in the compact. Like other parties acting in concert, but to whom it would be out of order that I should compare them, they found it difficult to divide the spoils on reciprocal terms—spoils not won by valor; not the fruits of victory achieved in honorable warfare. Compromise was necessarily resorted to: the principles of justice, equality, or reciprocity—none of them were applicable to such a state of things.

H. OF R.]

*Retrenchment.*

[MARCH, 1830.]

This effect of this proposition must be considered in all its bearings, we are told by the same gentleman, (Mr. MALLARY.) Why, sir, the duty on cotton bagging has no bearing, except on the Southern States, and they want no time to regulate the effects of its repeal. I hope that I have shown that Kentucky did not require it. But I will not affect to misunderstand the gentleman. His allusions are to the effect which the repeal of the most trifling duty may have on the great "American system"—a system, the operation of which, it was promised, would have more beneficial effects than have ever been anticipated from the discovery of the philosopher's stone—one which was to make the poor rich by giving constant employment and high wages—the farmer was to sink under his own wealth, arising from the home market and extravagant price of grain, wool, &c.; and by an accumulation in the price of all these, constituting two-thirds of the investments in manufactories, all manufactured goods were to be rendered cheaper. Well, sir, the tariff bill passed; and how have all these anticipations been realized? The operatives, the laborers out of employment, or suffering by the low wages, and the farmer's grain rotting in his barn, or sold at a sacrifice. A portion of the goods cheaper, it is true, but of no sort of importance in estimating the benefits or injury resulting from the system. It was from the beginning a scheme of cheating; and those who innocently participated are now sensible of the delusion, but they will not acknowledge it. An abandonment of principles, when once adopted and insisted on so extravagantly, however erroneous they may be discovered to be, is a severe trial—one which few are willing to encounter. But, whenever truth, reason, and justice shall again acquire an ascendancy on this subject, (the time may be distant—I fear it is,) the fallacy of these pernicious projects will be admitted, and the extent to which they have been carried will be attributed to infatuation.

Much has been said (continued Mr. M.) as to the excitement the tariff has occasioned in South Carolina. Sir, that is not a subject for discussion here. We are not accountable to this House, on any score. If we were, I would not shrink from a contest in support of any thing and every thing the people in their collective character have said on this subject, on any occasion. There are some acts of Government, which, so far from being justifiable, are not even excusable. Of this character is your tariff; and if it does produce excitement, let those who have produced it profit by what they admit is known to them. If, instead of this, they will pursue this principle, on their heads, not ours, be the consequences.

MONDAY, March 15.

*Public Lands.*

The House then resumed the consideration of the bill from the Senate "for the relief of

purchasers of public lands," together with the amendments reported to the same from the Committee on Public Lands. The question being on the amendment offered by Mr. VINTON, he made some remarks in explanation of it; and in conclusion he observed, that in order to ascertain the sentiments of the House in relation to the amendment, he would withdraw the two last sections of it, which contained the penal enactments. If the two first sections were rejected, he said, he would renew his motion to amend the bill by adding the third and fourth sections.

Mr. CLAY said he would vote against the amendment. He expressed his hearty concurrence in the two last sections of it.

Mr. IRVIN said he would vote in favor of the bill as reported from the committee. He hoped the amendment of his colleague (Mr. VINTON) would not prevail.

The question on the amendment to the amendment was decided in the negative.

Mr. VINTON then renewed his motion to add the third and fourth sections of the amendment he proposed.

Mr. CLAY expressed himself as favorable to the objects of this amendment.

Mr. WICKLIFFE, Mr. ISAACS, Mr. LEWIS, and Mr. BAYLOR, severally spoke in opposition to the amendment.

Mr. MCCOY, Mr. BURGESS, and Mr. VINTON supported it.

The blanks in that part of the amendment offered by Mr. VINTON, which specifies the term of imprisonment and the amount of penalty, were filled up; the first with "two years," the latter with "one thousand dollars."

The question was then put on agreeing to the two sections offered by Mr. VINTON, and decided in the affirmative.

Mr. DODDRIDGE moved to strike out the words "first August," and to insert in lieu thereof "fourth of July," in the first section of the bill; which was agreed to.

Mr. VINTON moved to amend the second section, by inserting after the words "possession of," in the eighth line, the following words: "And actually cultivated and improved by"—

This amendment was decided in the negative.

The amendments were then ordered to be engrossed, and with the bill to be read a third time.

[The bill subsequently passed, and was returned to the Senate; which body concurred in the amendments made in the House.]

THURSDAY, March 18.

*Retrenchment.*

Mr. McDUFFIE moved the following resolution:

"Resolved, That the Committee on Retrenchment be instructed to report a bill, providing that whenever the first session of Congress shall continue for

MARCH, 1830.]

*Revolutionary Pensioners.*

[H. OF R.]

a longer period than one hundred and twenty days, the pay of the members shall be reduced to two dollars per day from and after the termination of the said one hundred and twenty days; and that whenever the second session of Congress shall continue for a longer period than ninety days, the pay of the members shall be reduced to two dollars per day from and after the termination of said ninety days.

After moving the resolution, Mr. McDUFFIE proposed to modify it so as to make it an inquiry into the expediency, &c.

Mr. WICKLIFFE adverted to a bill under the consideration of the Committee on Retrenchment in relation to this subject, on which a difference of opinion had existed, which prevented it from being reported. He, therefore, wished that the gentleman would not modify the resolution, but that he would leave it in the shape of an instruction, so that the sense of the House might be distinctly ascertained on the subject. He stated that no retrenchment more efficient in its character could be introduced than that proposed by the resolution.

Mr. McDUFFIE thanked the gentleman for the information he had given him, withdrew his proposition to modify, and moved that the consideration of the resolution be postponed till Monday. Agreed to.

#### *Revolutionary Pensioners.*

The House then took up the report of the committee on the bill declaratory of the act to provide for persons engaged in the land and naval service during the revolutionary war, which was reported with amendments.

[The following is the bill as it was reported from the Committee of the whole House:]

"That in all cases, in which application has been or shall be made to the Secretary of War, by any person, to be placed on the pension list of the United States, under 'the several acts to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war,' and the granting of such application shall depend upon 'the circumstances and condition in life,' as is provided in and by the same acts, of him who so applies, the applicant shall be deemed and taken to be unable to support himself without the assistance of his country, if the whole amount of his property, exclusive of the house, building, and curtilage, by him occupied and improved his household furniture, wearing apparel, the tools of his trade, and farming utensils, shall not exceed the sum of one thousand dollars, all debts from him justly due and owing being therefrom first deducted. And no applicant for a pension under the provisions of this act, or of those acts of which it is declaratory, shall be required to show what his circumstances and condition in life were, or what property he was possessed of, at any time prior to the passage of this act.

"SEC. 2. *And be it further enacted*, That, whenever the granting of said application shall depend upon the term of service, as is provided in and by the first section of the first act of the several acts aforesaid, such applicant shall be deemed and taken to have served 'for the term of nine months, or longer,' as the case may be, within the meaning

and intent of the said last-mentioned act; if his continuous service in the war of the revolution, on the continental establishment, was nine months, or longer, notwithstanding his enlistment may have been for a shorter term than nine months, and notwithstanding he may, at any time, and during any portion of his said term, have been taken and detained in captivity.

"SEC. 3. *And be it further enacted*, That the regular troops of the several States of the United States, the enlisting and raising whereof was recommended or approved by the old Congress, shall be deemed and taken, within the meaning and intent of the acts aforesaid, to have been on the continental establishment; but nothing herein contained shall be so construed as to include in said class of State troops the militia of the several States."

Mr. CRAIG, of Virginia, moved to amend the amendment made to the bill in the Committee of the Whole, yesterday, by striking out the following words: "The house, building, and curtilage, by him occupied and improved," so that the bill would provide for persons worth one thousand dollars, "exclusive of their household furniture," &c. Mr. C. said he offered the amendment under the conviction that it was not the intention of gentlemen to pension those whose circumstances were comfortable, and who were able to support themselves.

On this motion a long debate took place, in which Mr. BURGESS, Mr. BATES, Mr. WICKLIFFE, Mr. CAESON, Mr. HUBBARD, Mr. CLARK, Mr. P. P. BARBOUR, Mr. POLK, Mr. BARRINGER, Mr. EVERETT, of Massachusetts, and Mr. McDUFFIE, took part.

Mr. HUBBARD, of New Hampshire, said it was not his purpose, at this time, to go into a very full consideration of this subject; but he would detain the House for a few moments, while he stated the reasons which would induce him to vote against the amendment proposed by the gentleman from Virginia, (Mr. CRAIG,) and support the bill and amendments adopted in the Committee of the Whole. I have, said Mr. H., ever been opposed to the contracted policy of the present pension system: I have ever been at war with what I have supposed to be the principle upon which that system is founded. The existing pension laws have been based on individual poverty and indigence, and not on actual services rendered, and on actual sacrifices made, in the cause of our country, during the period of our revolution.

In passing these laws, the Government have gone upon the principle that they were bestowing a gratuity, rather than discharging an obligation; and viewing these laws in this light, I never could give them my entire approbation.

It has been my uniform and firm belief, that the services and the sacrifices of those who fought the battles of our country during our revolutionary struggle, laid a just foundation for a claim on the country; and that the provisions of our pension laws should be equally extended to all such, as a liquidation of their



claim. It was the service of the faithful soldier that entitles him to a pension; and, whether rich or poor, he was equally the object of his country's justice.

The present laws are of a most invidious character; and the practical operations of them are most unjust. There are those in my own State, who were engaged in the same service during most of the war, who fought side by side under the operation of your pension laws: one is taken while another is left, one is poor while the other is not rich; one receives the bounty of his country, and from the other that bounty is withheld: and why is this difference? why this invidious, this mortifying distinction? Merely, sir, because one by his own prudence has been able to save a few hundred dollars for the comfortable support of himself and his family: merely, sir, because one by his own industry has been able to keep himself from the list of town paupers: merely, sir, because he has not been the object of public and private charity; while the other has, by a course of misfortune, or by a want of ordinary prudence, experienced the embarrassments and privations of poverty. And yet it has happened, that, in extending the bounty provided by the pension laws to those embraced within the last description, you have made their situation, in point of property, far more desirable than the situation of those who are excluded from a pension by the practical application of the same laws.

Such is the partial, unjust, and invidious operation of the present pension system.

I shall most cheerfully give my aid and my support to the bill and to the amendments recommended by the Committee of the Whole, for the reason that they are calculated to extend the benefits of the pension system; and that, if they shall be adopted, the cases of many meritorious soldiers will be embraced within their provisions. When a few more years shall have passed away, all those who are now, or who may, by the most liberal provisions of your laws, hereafter be placed on your pension list, will be numbered with the congregation of the dead; and then there will exist no necessity to make the annual appropriations for the fulfilment of the existing pension acts, which seem to be so peculiarly obnoxious to the gentleman from Kentucky, (Mr. WICKLIFFE.) That gentleman says he is opposed to the bill and the amendments, for the reason that they will tend to swell the pension list; for this reason, and for this reason alone, they meet with my entire approbation, and shall receive my most hearty support. I perfectly accord with the remarks which have fallen from the gentleman from North Carolina, (Mr. CARSON.) To the whole of that faithful band of patriots, who performed the requisite term of service, in the war of the revolution, I would extend the benefits of the pension laws—I would do that as a matter of justice—could I have my will, I would not stop short; and, at

all times, I shall feel disposed to give my best aid in the support of every measure which shall have for its object the extending the benefits of the pension system; which shall in effect place the greatest number of our revolutionary soldiers on the pension list. It would be but an act of justice to include every individual who has performed the requisite term of service. It would be but an honest discharge of our obligations to this meritorious class of our citizens.

The gentleman from Kentucky (Mr. WICKLIFFE) has further stated, that, if the amendment of the committee should be adopted by the House, it would of consequence greatly increase the amount of the appropriations for this object. It might be so; but that consideration should not deter us, if the measure is right: it cannot deter me from doing this act, which I deem but an act of perfect justice.

The number of revolutionary pensioners falls short of twelve thousand, and the number of invalid pensioners falls short of four thousand; and whether the number would or would not be increased, by passing the bill with the amendments now under consideration, I will not stop to inquire; for I cannot but consider this as a debt due to this faithful band of patriots, founded on services performed, and on sacrifices made, for this country during the war of our revolution; and it is alike due to all, no matter what may be his condition or circumstances in life. These being my views, and under the influence of these considerations, I cannot favor the amendment of the gentleman from Virginia; but shall most freely lend my aid to the most liberal extent and to the most liberal application of the pension system, until every faithful soldier of the revolution shall participate in the justice of the country; and if I cannot succeed, at this time, in accomplishing the extent of my wishes, I will do whatever my hands shall find to do, in furtherance of the object.

The first pension act was passed in 1818, and it offered encouragement to the remnant of that band of patriots who braved the storm of our revolution, to ask and to receive aid from their common country; and under this act many did ask, and many received; but in a short period an additional act was passed, which suspended the payment of every pensioner until he should make and forward to the department a schedule of his property, which should furnish the evidence that he was in such indigent circumstances as not to be able to support himself without the aid of public or of private charity; and only in such event, according to the construction which had been given to the act of 1818, could he be restored to the list. Under the act of 1820, many, very many faithful and meritorious soldiers were dropped from the list. And although subsequent explanations would have warranted the department in reinstating many of the applicants, yet such was also the construction given

MARCH, 1830.]

*Revolutionary Pensioners.*

[H. OF R.]

by authority to the act of 1820, that those who have been dropped could not be reinstated, which suggested the absolute necessity of the act of 1823; and under this last statute such rules and regulations have been established at the department, as in effect to exclude almost every applicant who is not numbered on the list of town or country paupers.

Sir, it has become indispensably necessary that some explanatory law should be enacted; and believing, as I do, that the bill with the amendments, recommended by the Committee of the Whole, will do more justice than has as yet been rendered, I shall give them my support.

The amendment to the amendment was agreed to.

Mr. CLARK, of Kentucky, inquired of the Chair whether it would be in order to move to strike out the sum of one thousand dollars, and insert sixteen hundred instead of it.

The SPEAKER said it would not be in order to make a motion in the House to insert a higher sum than that which had been agreed to in the committee.

Mr. McDUFFIE then moved to amend the amendment just made, by adding to it the following proviso:

*"Provided also, that all applicants who shall be worth less than two hundred dollars shall receive the full amount of the pensions herein provided; and that, for every hundred dollars more than three hundred which any applicant shall be worth, six dollars shall be deducted from the annual amount of the pension to which such applicant shall be entitled."*

At the suggestion of Mr. CRAIG, of Virginia, Mr. McDUFFIE modified his proposition, by changing the sum to three hundred dollars.

Mr. BUCHANAN said he would oppose this amendment, for the obvious reason that it would tend to produce fraud and perjury, since it held out an encouragement, to every applicant for a pension, to reduce his property as low as three hundred dollars. It would give him six dollars per every hundred he reduced the value of his property.

Mr. McDUFFIE said he was astonished that a gentleman of so much sagacity as Mr. B. did not discover that the same objection lay against the bill itself.

Mr. BUCHANAN replied, the only difference was, that the temptation to commit perjury was, according to his (Mr. McD.'s) proposition, sevenfold greater.

Mr. ELLSWORTH opposed the amendment. It was, he said, too much refined for any practical purposes.

Mr. BURGESS also opposed it.

The question was then put, and taken by yeas and nays, and decided in the negative—124 to 56.

Mr. WICKLIFFE offered the following amendment, to be added to the first amendment of the Committee of the Whole:

*"Provided also, that the provisions of the bill*

*of 1818 shall be construed to extend to the officers and soldiers who served under General George Rogers Clarke in his expedition against the posts at St. Vincents and Kaskaskias, and the officers and soldiers who served nine months at any one time in the State or continental service during the war of the revolution, in the quarter or wagonmaster's department, though they were not of the line of the army."*

The question on Mr. WICKLIFFE's proposition was decided in the negative.

Mr. MARTIN then moved to amend the bill by inserting at the end of the amendment of the committee to the first section of the bill, the following words:

*"And all such as were engaged in service under the command of Francis Marion, Thomas Sumter, and Andrew Pickens, of South Carolina, whether during their command as colonels or brigadier generals."*

He subsequently modified his proposition, by adding to it the following words, at the instance of Mr. WAYNE:

*"And all such as were in service for the time stated in this act, under Colonels John Twigg, Elijah Claude, and James Jackson, in the State of Georgia."*

Mr. CHILTON moved an adjournment, which was refused.

The amendment proposed by Mr. MARTIN, as modified, was rejected.

The question being stated on the amendment offered yesterday in committee, by Mr. SILL, and agreed to,

Mr. HOWARD suggested that it was in conflict with the provisions of the act of 1820, prescribing the oath to be taken by persons claiming pensions.

To obviate this difficulty, verbal modifications were proposed by Mr. DAVIS, of Massachusetts, and Mr. BURGESS.

Mr. P. P. BARBOUR submitted the following—to strike out the third section of the bill, and to insert these words:

*"Provided, that the oath prescribed by the act of 1820, entitled 'An act in addition to an act entitled an act to provide for certain persons engaged in the land and naval service of the United States in the revolutionary war, passed the eighteenth day of March, one thousand eight hundred and eighteen,' shall be so far varied as to apply to the date of the passage of this act, instead of the time in said act specified."*

Mr. SILL offered the following proviso, which he thought would meet the views of the gentleman:

*"But nothing in this act shall be so construed as to dispense with the oath required by the act of 1820."*

Mr. P. P. BARBOUR, approving of this proviso, withdrew the amendment he offered; and

The question on thus amending the amendment was decided in the affirmative.

H. OF R.]

*Revolutionary Pensioners.*

[MARCH, 1830.]

The amendment to the amendment was then agreed to.

The amendments of the committee having been gone through,

Mr. CHILTON then moved to amend the whole bill as amended, by striking out all after the enacting clause, and inserting the following as a substitute :

"That the provisions of the pension laws of the United States, which are now in force, shall be, and the same are hereby, so extended as to embrace, upon the same principles, and under the same rules and regulations as to testimony, such troops as fought in the State lines, or belonged to the volunteer corps, having served at one or more periods, for the term of nine months, and to the draughted militia of the several States."

Mr. CARSON moved an adjournment, which was refused.

Mr. CHILTON then proceeded to explain his amendment for a short time, but the impatience of members (it being then past five o'clock) induced him to renew the motion to adjourn. But the House refused to adjourn. Yeas 82, nays 102.

Mr. CHILTON then asked for the yeas and nays on the question upon the substitute he offered.

Mr. DWIGHT said he thought it was but reciprocating the courtesy extended by Mr. C. to the House in not trespassing on their attention, when he discovered their reluctance to hear him, that they should indulge him, (Mr. C.,) by agreeing to have the question taken by yeas and nays.

Mr. MILLER then called for the previous question, which was seconded. Yeas 95, nays 72.

The yeas and nays were ordered on the previous question.

Another motion to adjourn was made, which was unsuccessful.

The yeas and nays were then taken on the previous question, and it was decided in the affirmative—92 to 85.

On the main question, "Shall the bill and amendments be ordered to be engrossed for a third reading?" the yeas and nays were ordered, and were as follows :

YEAS.—Messrs. Anderson, Arnold, Bailey, Noyes Barber, Barringer, Bates, Baylor, Beekman, Bockee, Boon, Borst, Brodhead, Brown, Buchanan, Burges, Cahoon, Campbell, Chandler, Clark, Coleman, Condict, Conner, Coulter, Cowles, Hector Craig, Robert Craig, Crane, Crawford, Creighton, Crowninshield, Daniel, Davenport, John Davis, Deberry, Denny, De Witt, Dickinson, Doddridge, Dudley, Duncan, Dwight, Earll, Ellsworth, Geo. Evans, Joshua Evans, Edward Everett, Horace Everett, Finch, Ford, Forward, Fry, Grennell, Halsey, Hammons, Hawkins, Hemphill, Hinds, Hoffman, Howard, Hubbard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, William W. Irwin, Jennings, R. M. Johnson, Kendall, Kincaid, King, Lecompte, Lent, Letcher, Lyon, Magee, Mallary, Martindale, Thomas Maxwell, Lewis Maxwell, McCreery, McIntire, Mercer, Miller, Mitchell, Monell, Muhlenberg, Norton, Pearce,

Pettis, Powers, Ramsey, Reed, Richardson, Russel, Scott, Shields, Semmes, Sill, Samuel A. Smith, Ambrose Spencer, Richard Spencer, Sterigere, Stephens, W. L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, J. Thompson, Tracy, Verplanck, Washington, Weeks, Whittlesey, C. P. White, Edward D. White, Wingate, Yancey, Young—123.

NAYS.—Messrs. Alexander, Alston, Angel, Armstrong, Philip P. Barbour, Barnwell, Bell, James Blair, John Blair, Chilton, Claiborne, Clay, Crockett, Crocheron, W. R. Davis, Desha, Drayton, Foster, Hall, Haynes, Isacks, Cave Johnson, Lamar, Lea, Lewis, Loyal, Lumpkin, Martin, McCoy, McDuffie, Nuckolls, Overton, Polk, Rencher, Roane, A. H. Shepperd, Alexander Smyth, Speight, Stanberry, Standifer, Wiley Thompson, Trezvant, Tucker, Vance, Vinton, Wayne, Wickliffe, Williams—48.

FRIDAY, March 19.

*Revolutionary Pensioners.*

The engrossed bill explanatory of the revolutionary pension laws, (establishing a construction of those laws more liberal than they receive from the Secretary of War,) was read a third time, and the question stated on the passage of the bill.

Mr. WILLIAMS, of North Carolina, rose, and said, after the very full discussion of the bill yesterday, and the decided majority which appeared in its favor, it would be inexcusable in him now to consume the time of the House with an argument on the merits of the bill. But this was as proper a time as any to try the sense of the House on the question of providing for the militia of the revolutionary war, as well as the regular soldiers of the revolution. He should, therefore, move to recommit the bill, with instructions to incorporate such a provision in it. If either of these classes of troops were to be provided for, alone, Mr. W. avowed that he had no hesitation in saying he would give the preference to the militia, because they entered the service from different and higher motives, and were of very different materials. He would, however, abstain from any debate, and content himself with simply making his motion, which he hoped would not be cut off by the previous question, as was the case yesterday; and on his motion he called for the yeas and nays.

Mr. BATES opposed the motion. The only effect of it would be to defeat this bill, for every bill which had embraced the provisions proposed, had sunk. If the House was in favor of such a proviso, it could be introduced hereafter in a separate bill; but he protested against endangering the bill by this provision.

Mr. BELL reprehended warmly the mode pursued by the majority, in cutting off debate and amendment, and forcing the bill through.

He asserted and maintained at considerable length the merits of the militia of the revolution, and their claims to reward, if any part of the revolutionary soldiers were provided for; condemned the plan so manifestly pursued, of

MARCH, 1880.]

*Revolutionary Pensioners.*

[H. OF R.]

getting the pension system extended gradually by detachments, from a fear that it would not go down all at once; and avowed and explained his objections to the original pension act of 1818, on account of its unjust and invidious discriminations between the different classes which served in the revolutionary war, and excluding the most meritorious, &c.

Mr. SPEIGHT moved to amend the amendment by the addition, that no person should be placed on the pension roll, if his property shall exceed five hundred dollars independently of his debts.

Mr. WILLIAMS did not wish his amendment to be encumbered with any other proposition. He wished to obtain the sense of the House on the simple and distinct question which he had submitted.

Mr. CARSON objected to Mr. SPEIGHT's motion, that it had been tried and rejected yesterday—that it was useless to offer it again, and he wished to see Mr. WILLIAMS's amendment tried by itself.

On submitting this amendment, Mr. S. said that he rose for the purpose of offering an amendment to the instructions of his colleague, (Mr. WILLIAMS.) He had no disposition to enter into the general discussion of the question before the House; for he was well aware of the situation in which any gentleman was placed who might venture to express his opinion in opposition to a pension bill, however partial it might be in its operation. It would seem, from the disposition manifested by some gentlemen who have participated in the debate, that all those who venture to express objections to this bill are to be regarded as unfeeling and ungrateful towards those who fought for the liberty of the country. He would inform gentlemen he felt as much regard for the welfare of them as any man. But he was opposed to this bill, because it made an invidious distinction; it contemplated provisions only for those who belonged to the regular line; and it was known that the Northern States were the theatre of war with the British, while, in the South, a partisan warfare was carried on, which eventuated in promoting the cause of liberty as much as that in the North. By the passage of this bill, no provision would be made for the troops in the South of the gallant Marion, Sumter, and Oaswell; and, in his opinion, they were equally entitled to the fostering hand of the Government as the regulars. He appealed to the magnanimity and the gratitude of the House, to say if the militia were to be passed by unnoticed. He knew many of them who were old and bowed down by infirmities, and their situation called on this House for aid as much as any portion of the revolutionary patriots. By this bill you make provision for those of the regular line; and if they, as I have no doubt was the fact with many of them, who never saw an enemy and never fired a gun, are to be provided for, while the poor militiamen, who left their homes, had

their wives and children butchered, their houses burnt, and every thing destroyed, are to be unnoticed, he was opposed to the bill and all such partial legislation.

The amendment he had proposed fixed the maximum of property at five hundred dollars. In his opinion, that was high enough; and any who was worth that amount of property, after his debts were deducted, was able, without the aid of the Government, to support himself. Though, in conclusion, he would say, he could not so much as say what might be the sum fixed on, he hoped the bill would be committed with the instructions to extend the pension law to the militia.

The debate now assumed a general and comprehensive scope.

Mr. WILDE addressed the House at large, in support of Mr. WILLIAMS's amendment, and in support of the claims of the militia.

Mr. LECOMPTÉ spoke earnestly in favor of the bill, and the principle of providing liberally for the remnants of the revolutionary army.

Mr. CROCKETT, of Tennessee, said, he felt himself called on to submit a few remarks on the bill under consideration. Sir, said Mr. C., I voted against the bill yesterday, which is called an explanatory law of the act of 1818, for the relief of the old revolutionary soldiers. Sir, I consider the provisions of the bill, as it is amended, a partial one, and such a one as I cannot nor will not support. I have always been the firm friend of the old soldiers, and hope ever to remain their friend, while I am entitled to raise my voice in this House.

Sir, what are the provisions of the bill? You give any and every man a pension, who has no more than one thousand dollars, exclusive of his household furniture, house, and land. Sir, in my country, we think a man pretty well off who owns that sum after paying all his debts, and owning such property as is described. Sir, I do not consider that a man in such a situation ought to be entitled to the bounty of his Government. Sir, in my country, for the sum of one thousand dollars, a man can purchase two good negro men and one hundred acres of the best land in the country. That, sir, would support a man, without calling on the Government for a pension. I came here, said Mr. C.; to do justice to every man, and under all circumstances; and if I cannot do this, I will not vote for a partial law like this. Sir, this bill provides for none but those of the continental line, and excludes all the volunteers and militia who fought in the old war, no matter how meritorious they were. Sir, some of those very men, who fought bravely, and who are tottering through life, almost ready to drop into the grave, have been knocking at the door of Congress for years; and what are we doing, sir? Passing a law to exclude them, and to provide for men that do not need the bounty of the Government. Sir, tack them all together, and I will go as far for them as any gentleman in Congress. What

was said by the gentleman from New York? (Mr. TAYLOR.) He has drawn the distinction between the regulars and the militia and volunteers, and has decided in favor of the regulars receiving the bounty of the Government, to the exclusion of the others. Sir, I must beg leave to differ in opinion with that gentleman. If I were to draw a distinction, I would give the preference to the militiaman and the volunteer. The regular sold himself to the Government for a bounty of land and money, which he received long since; and the others went and fought for the love of their country; they left their homes and their wives and children, and fought bravely through the war, and received the little pittance of common wages. Sir, is it just, is it honest, to exclude those men? No, sir; I am bound to decide entirely in their favor, if we give any a preference. But, sir, it is my wish to provide for all. I hear gentlemen say that we will bankrupt the nation. Well, sir, let it be so—I go for all or none. I see millions after millions of money voted away—for what, sir? For the petty little object of supporting your fortifications, breakwaters, or light-houses.

Sir, in my district I know some of those deserving old men, who cannot long trouble this Government with their voices, asking aid, in their old age, to make them feel comfortable. A few days more, and they bid adieu to this world. I do insist that they never ought to be forgotten or neglected, while there is one of them to claim our gratitude. They have achieved the glory and honor of our country by their bravery. The privileges which we are now enjoying on this floor, were purchased by their toil and blood. Sir, let me tell gentlemen that I had the honor, in our last struggle, to shoulder my gun, and march into the field. There I discovered who fought bravest, the regulars or the volunteers and militia. Sir, when the regular troops were living bountifully, the militia were in a state of starvation. I have witnessed this, and, therefore, I am enabled to judge from that circumstance how they fared in the first war. Sir, there are but few of those poor old veterans in my section of country, though I imagine it is very different in the North. I have been informed, and believe it, that they never die in the Eastern States. Sir, from what I can learn, I should expect that they live always there.

I discover that some gentlemen wish to get the funds of this Government distributed, and they care not for what. Sir, I came here to do justice; and I will do justice, or I will do nothing. In my district, I know one case, where a poor old revolutionary soldier, who served as a volunteer for some time, then enlisted as a sailor, and served three years on the ocean, who is unprovided for. Sir, it is lamentable to view his situation, and hear him tell of his sufferings. It is out of his power, at this time, to find any of his old brother sailors who served with him. Sir, his situation is this: one good

neighbor has supported the poor old man, and another his old lady, and maintain them just as an act of charity. I presented the poor old man's claim to this House, and what is the result? He is rejected, and for the reason that he cannot obtain proof, only by his own oath. Sir, I do not believe he would make a misrepresentation for any consideration. This is one case: and I have no doubt but there are many other such cases. For God's sake, if you do extend charity to one class, do so to all. I voted against the old officers' bill, last session, because you would not attach the soldiers to them, who fought with them side by side. Now, sir, if you cut off the volunteers and militia, I will vote against this bill. I will not go for them piecemeal; I take all or none, as I have before stated. To draw a distinction between men who have performed the same services, is what I never will agree to do. If you do not adopt the amendment of the gentleman from North Carolina, and attach the militia and volunteers, as proposed by Mr. CHILTON, of Kentucky, I will enter my protest against the bill, and believe that I have acted honestly. Sir, I will detain the House no longer.

Mr. CHILTON took the same side, and strenuously advocated the amendment of Mr. WILLIAMS.

Mr. RICHARDSON, remarking that this was one of the days set apart for private bills, thought it right to make an effort to prevent the day being consumed by this debate; and he therefore moved the previous question—but the motion was lost.

Mr. CARSON spoke against the recommitment of the bill, and in favor of its passage in its present shape.

Mr. WILLIAMS had refrained from going into any reasons when he offered the amendment, hoping it would be decided without debate, as every man's mind was doubtless made up on the question; but as he had been disappointed in this hope, he now proceeded to submit at large his reasons in favor of his amendment.

Mr. WAYNE followed on the same side, and addressed the House at considerable length, in support of the claims of the militia of the revolution to equal favor, at least, at the hands of the Government.

Mr. HALL handed to the Chair the following extract from a letter which he had received from the chief of the Pension Office, which he desired to be read for the information of the House:

"It appears that the following appropriations have been made for paying pensioners under the act of March 18, 1818.

The law of the 20th April, 1818, appropriated		
"	15th February, 1819,	\$ 300,000
"	14th April, 1820,	1,780,500
"	3d March, 1821,	2,766,440
"	15th March, 1822,	1,200,000
"	3d March, 1823,	1,451,245 64
"	10th March, 1824,	1,538,815
		1,381,716 39

[MARCH, 1830.]

*Buffalo and New Orleans Road.*

[H. OF R.]

the law of the 21st February, 1825,	1,248,452	26
" 18th January, 1826,	1,352,790	
" 29th January, 1827,	1,260,185	

Aggregate,	\$14,190,144	29
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"The precise number of applications cannot be ascertained, as a correct account of them was not kept at the commencement of the operation of the law; but the amount is known to exceed thirty-one thousand.

"The number of men in the continental army, at the close of the revolutionary war, was thirteen thousand four hundred and seventy-six. The army was larger in 1776 than at any other period of the war: it contained forty-six thousand eight hundred and ninety-one men."

"MARCH 19, 1830.

"The amount of appropriations up to this time, including the appropriation of this session, if rightly added, is sixteen millions five hundred and fifty-eight thousand three hundred and twenty-four dollars and twenty-nine cents."

The question being put on Mr. SPEIGHT's motion, it was negatived without a division.

The amendment offered by Mr. WILLIAMS was then also decided in the negative by the following vote: yeas 74, nays 107.

Mr. POLK then spoke some time against the passage of the bill. When he concluded,

Mr. DODDRIDGE called for the previous question, which was seconded, 84 to 74; and the main question was ordered, the effect of which was to set aside all amendments and intermediate motions. So that

The question was put on the passage of the bill, and decided in the affirmative—yeas 122, nays 56.

MONDAY, March 22.

*Buffalo and New Orleans Road.*

The House resolved itself into a Committee of the Whole, and took up the bill to lay out and establish a national road from Buffalo, in New York, by Washington city, to New Orleans.

Mr. HEMPHILL rose, and entered into a general defence of the proposed measure, maintaining its constitutionality—being a work emphatically national—its high importance to the Union, &c. He had not concluded his remarks, when he gave way for a motion for the committee to rise.

TUESDAY, May 23.

*Case of Judge Peck.*

Mr. BUCHANAN, from the Committee on the Judiciary, to which was referred the memorial of Luke E. Lawless, of Missouri, complaining of the conduct of James H. Peck, Judge of the District Court of the United States for the District of Missouri, made a report thereon, concluding with the opinion that the said judge ought to be impeached.

Vol. X.—44

Mr. BUCHANAN, in presenting the above report, stated that the committee had deemed it fairest towards the party accused, not to report to the House their reasons at length for arriving at the conclusion that he ought to be impeached. In this respect, they thought it advisable to follow the precedent which had been established in the case of the impeachment of Judge Chase. Mr. B. moved to print the report and documents.

Mr. CLAY moved to amend the motion to print, by adding the words, "And also the memorial of Luke E. Lawless, and the address of the judge to the committee."

Mr. HAYNES moved to suspend the rule of the House which prohibits debate on motions to print, so far as concerns the subject under consideration. Negatived.

The amendment proposed by Mr. CLAY was rejected, and the report and documents were ordered to be printed.

Mr. BATES, from the Committee on Military Pensions, and by order of that committee, moved that the Committee of the whole House on the state of the Union be discharged from the further consideration of the resolution reported from the Committee on Military Pensions, on the 8th of January last, to extend the pension laws of the United States, so as to include within its provisions every soldier who aided in establishing our liberties, and who is unable to maintain himself in comfort; and that the said resolution be made the special order of the day for Monday next, the 29th instant.

Mr. B. said, gentlemen who were in favor of the amendment of Mr. WILLIAMS, on Friday last, to provide for the militia, would, by this resolution, be presented with an opportunity of effecting their wishes; and, on the motion which he made, he asked the yeas and nays. They were ordered accordingly, and were as follows:

For the motion, 129—Against it, 47.

Mr. SWIFT moved a reconsideration of the vote taken yesterday, by which the resolution relative to fortifications on Lake Champlain, offered by him on the 18th instant, was referred to the Secretary of War—the question having been misapprehended at the time it was put—many members supposing it was on his original resolution, whereas it was on the amendment.

The motion was agreed to; but the expiration of the hour arrested further proceedings to-day.

*Buffalo and New Orleans Road.*

The House then resolved itself into a Committee of the whole House on the state of the Union, Mr. HAYNES in the chair, and resumed the consideration of the bill "for making a road from Buffalo, through Washington city, to New Orleans."

Mr. HEMPHILL said: This road, leading from the seat of the General Government to Buffalo

and to New Orleans, two frontiers which will be imminently exposed in the event of a war, cannot be otherwise than of the highest importance. The badness of the road from hence to Buffalo, during the last war, protracted intelligence, and prevented a quick concentration of troops and of the munitions of war to the parts required. If there had been good roads, the military disasters at the commencement of the war never would have occurred. The badness of the roads swelled the expenses of the country to a prodigious degree. A single cannon transported from the foundries on the seaboard to the frontiers of the lakes, cost about two thousand dollars, and every article necessary in war bore the same wasteful and extravagant proportion. The waste which the necessity of the times, and state of the roads, exposed us to, would more than make the road contemplated in the bill. Our country is large; and the frontiers and exposed points being at great distances from each other, render the necessity of good roads (in a time of war) all-essential. The military power of a nation, in all ages, consists not more in a numerous population and great resources, than its capacity to concentrate its forces with rapidity to the exposed points on the frontier liable to be assailed. Good communications increase the military arm in a due proportion to the population and resources of a nation or country. On a single day, sooner or later in the arrival of troops or intelligence, may altogether depend the fate of the most important places in the country.

This road to Buffalo presents advantages peculiarly national in their character. It opens a country abounding in iron, fuel, and water power; and, in the event of our foundries and armories on the seaboard being destroyed by an enemy, it would afford the means of establishing others in the interior, secure from attack, where cannon, shot, small arms, &c., might be manufactured, which, by means of this road, and other means of transportation, could be taken to any point wherever the nation should require. It would also open to the seaboard, as well as to the lakes, an extensive and fertile country, increasing in population and in the production of provisions of every description, and which could be made available at either extremity of the road.

The proposed road would derive additional importance, in a military view, from the character of the population of the country through which it will pass. In the mountain regions, it is said that there is scarcely an individual who is not well acquainted with firearms, and expert in horsemanship; the whole population in the mountain regions (as well as in the plain country) are distinguished for their physical energies, which will always render them among the best materials for military purposes. In time of peace, cannon and munitions of war might be conveyed by sea and the New York canal to the frontiers on the lakes. But, in

time of war, the maritime power of the enemy would render this communication too uncertain, and in the winter time the canal would be frozen. [Here Mr. HEMPHILL read the report of Doctor Howard, one of the United States engineers.]

"The importance of such a road as that now proposed, in a military point of view, is so strongly marked, that it will not be necessary to dwell on them in detail, but merely to point them out. It will afford a ready communication to the northern frontier, from the central part of Pennsylvania, from Maryland, and from the eastern part of the State of Virginia, giving facilities for the transportation not only of men, but also of many of the supplies and munitions of war, which are the productions of these three States. During the last war, the route by the Painted Post was found so necessary for this purpose, that it was extensively used; and, notwithstanding the badness of the roads, supplies of all kinds were carried on it, at an expense which it is satisfactorily estimated would have been sufficient (in a single campaign) to have defrayed the cost of the work.

"In the present situation of things, the citizens of the western part of New York are almost as effectually separated from their neighbors of Pennsylvania, as if an impassable barrier were interposed between them."

The highway proposed in the bill will open lucrative communications between these interesting sections of our country. The location of the road from Washington to Buffalo, is left to the discretion of the commissioners, as the committee could not, satisfactorily to themselves, designate the route.

The committee have deemed it sufficient to have the road located, graduated, and bridged, and to form the bed of the road, as an earthen turnpike, except in such cases where it will be indispensable to use gravel. On examination of the estimates of the engineers for making turnpike roads on the several routes from Washington to New Orleans, they state so much for location, so much for graduation and bridges, and so much for turnpiking with stone. The committee, by deducting the latter, and taking the best pains they could upon the subject, came to the conclusion that fifteen hundred dollars per mile would make an excellent common road, graduated at an elevation of three degrees in the mile.

From this city to Buffalo, a considerable distance is turnpiked; and, whenever that is the case, it is not to be affected by this bill. The whole road to be made will be, as near as the committee could judge, about fifteen hundred miles, which will cost two millions two hundred and fifty thousand dollars, to be drawn in instalments of not more in one year than about five hundred thousand dollars; which sum the country will scarcely feel, and it will be distributed along the whole line among architects, the owners of the adjacent lands for materials, and to the poor and industrious laborers.

The great national advantages of a road from the seat of Government to New Orleans, will

MARCH, 1820.]

*Buffalo and New Orleans Road.*

[H. OF R.]

scarcely, I should suppose, be denied by any one. Soon after the acquisition of Louisiana, Mr. Jefferson, as I have understood, had a reconnaissance of a road to New Orleans taken at his private expense. It has been deemed of such magnitude by the General Government, that three general routes have been surveyed, under the act of 80th April, 1824; many of the reasons assigned in favor of the Buffalo part of the road will equally apply to this part. Its importance in time of war cannot be overrated; the difficulty of transporting men and arms to this exposed point (during the last war) is well known to us all. I will not descend to particulars: I appeal to the recollection of this honorable committee.

The routes surveyed are an eastern, a middle, and a western route. The committee, after a careful examination of the report of the engineers of 8th April, 1826, selected the western route. The Committee on Roads and Canals, at the last session of Congress, did the same; and I am persuaded the Committee of the whole House will be of opinion that it is, upon the whole, the most eligible route—each has its advantages and disadvantages. The report says, “that the eastern and middle routes will accommodate directly more States than the western; but, by anticipating the increase of the population on the western route, that the three, in this respect, ought to be placed on the same footing. In comparing the western route with the eastern route, we find that on the eastern route the soil is inferior, the bridges and causeways will be greater, the advantages to internal commerce will be less, and that this route would not be so useful in war; that the carrying of the mail and the expenses of travelling would be greater, and, on the whole, it will be more costly. Its advantages over the western route are, that the graduation will be less, that it would, in a greater degree, facilitate correspondence between our inland importing and exporting marts, and also diffuse political information between the General Government and the capitals of the South, as this route would pass through many of them. In comparing the western with the middle route, we find the materials for a road about the same. The soil on the western route is the best; the causeways will be less, and the graduation greater. The bridges on the western route will be in length only three miles and nine hundred and fifty-three yards. On the middle route, the length of the bridges will be six miles and one thousand two hundred and thirty-nine yards. The distance of the middle route is eleven hundred and forty miles. On one course of the western route, the distance is exactly the same; but on Snickner’s Gap route, it is eleven hundred and sixty-three miles. The expense of labor is rather less on the western route. For carrying the mail, the report gives preference to the middle route, but at the same time remarks, that, as to time, it does not suffice that it should be travelled over

in the shortest time, and at the least possible expense; but it must also accommodate laterally to its direction the greatest extent possible of territory. In this point of view, it is said, if the western route is not as central as the others, in relation to the States it traverses, it has the advantage of being more central in relation to the States taken together, and comprehended between the Atlantic on the east, and the Ohio and the Mississippi on the west.

But, in relation to such a road as this will be, extending from the seat of Government to two exposed and extreme frontiers of the country, and which is calculated to remain a great highway for ages, a little difference in expense or distance ought not to be viewed as of much importance.

There are considerations which give a decided preference to the western route. The first is its superior advantages in time of war. The Southern States will have their own borders to defend, and this they will be always capable of doing. They are contiguous to each other, a condensed population, and nearer to the seat of Government, and to the military and naval establishments. They will seldom, if ever, be called across the mountains. The States on the Gulf of Mexico being in the vicinity of the West Indies, will be exposed to imminent danger; and their own forces being inconsiderable, they must look for assistance from remote inland States. Tennessee and Kentucky, having no frontiers to defend, and being more interested than the South in the regions of the gulf, would be their natural allies, and always ready to aid the States of Louisiana and Alabama, and to defend the naval establishments at Pensacola. This road, in case of an emergency, would afford to the Western States the most signal advantages. They could then march their troops to the field of battle. The western route will connect different sections of the country, which are separated by natural obstacles. This is one of the great advantages of internal improvements. It will form a communication between the West and the Atlantic Ocean, and augment internal trade; the people of the West could bring their produce to it and along it, in either direction, to the most convenient avenue to a market.

WEDNESDAY, March 24.

*Buffalo and New Orleans Road.*

The House then resolved itself into a Committee of the whole House on the state of the Union, Mr. HAYNES in the chair, and resumed the consideration of the bill “for making a road from Buffalo, through Washington city, to New Orleans.”

Mr. BLAIR rose, and remarked that the bill under discussion was one of the few, if not the only one, upon the long list of the bills of the House, which, in its consequences, promised



direct benefit to his constituents; that, and the consideration of having presented the subject to the consideration of this House, and having been of the committee that reported it, furnished his apology for the trespass which he proposed to make upon the time and the patience of the committee. But, said Mr. B., when I look around me in this House, and see the number of friends, both personal and political, from whom I am separated on this question, and with whom, on most others, it has been my pride to act; sir, when I look to the delegation from my own State, and there see, for a time, the line of separation drawn between some of my worthy colleagues and myself, for all of whom I entertain the most friendly regard, I would willingly have avoided saying any thing on this important subject; yet, when I reflect that the Legislature of the State from whence I come, in often repeated instances, has called upon the delegation in this House to sustain the principles of this bill, and thrice repeated that language to us during the present session, my immediate constituents being almost undivided on that subject, and expecting me to represent their wishes on this floor, sir, I have no alternative, the path of my duty is so clearly delineated, that it cannot be mistaken. I was educated in that school in which the doctrines were considered orthodox, that the representative is bound to obey the will of his constituents; and, whilst I allow others the same freedom of will which I claim the right to exercise, I myself am determined that the sin of disobeying my constituents, knowingly, on questions of expediency, shall not attach to my skirts. They have a right to expect that I will not only sustain their principles by my vote, but to the utmost of my power, in the full use of all the legitimate means with which their kindness has invested me. In doing this, I have the consolation to feel that I am acting in consistency with my own views, and upon principles long established, as to the true character of national policy. On this much-controverted question, I have dared to think that all the vital interests of our country, and particularly of the interior, loudly called for a judicious system of internal improvements. As to the constitutional power of Congress over this subject, I am equally clear, and had prepared myself to sustain the views which I had taken; but, from the high-minded, honorable course taken by the worthy gentleman from Virginia, (Mr. BARBOUR,) who opened this debate in the opposition, I am gratified to have it in my power to follow his example, and exempt myself from a discussion upon which there was little hope of accomplishing more than a useless consumption of public time. With him I think all has been said that could be, in support of that ground; and though no gentleman's conscience could be fettered by any precedent, yet the inutilty of such discussion should admonish us to desist. Had I been driven into the subject, I consider

this as being more defensible than most others belonging to that system; indeed, if we regard it merely as a mail road, it falls within the scope of the express power granted by the constitution. If for military purposes, it is fairly deducible from that expressly granted; else we are presented with the humiliating spectacle of a Government formed for the defence of the people, so imbecile as wholly to fail in the accomplishment of that object. But I will pass on to the subject, and meet my friend from Virginia, and take issue with him upon the expediency and necessity of constructing the road. He has not only tendered to the country his issue, but has embellished his own side with an address so imposing, as to bespeak the distinguished talents of its author. Yet with this fearful odds against me, and relying solely upon the justice of the cause, and the impartiality of the tribunal, I fearlessly stake upon the result whatever of public preferment may yet be in reserve for me.

Before, however, I enter upon this subject with the gentleman, I must be allowed to submit a remark in explanation of the reasons which induced the committee to embrace, in the same bill, the Buffalo and New Orleans roads. It is true that the surveys of these roads were separately made, and separate bills reported to the last Congress: but, on the strictest investigation, the committee could see no reason for constructing the one, that did not equally apply to the other, so far as the purposes of the General Government are concerned; they are roads of the same character, meeting at the same place—presenting the like considerations. It was therefore thought most expedient to unite them, and construct from north to south a great interior artery in the body politic, with which, when perfected, other and less extensive intersections might be formed by the States, or this Government, as future exigencies might require. True, a road from Buffalo to New Orleans, in a direct course, would not pass through this city, and that is the reason for the course which is made in its delineation in the bill. But Washington being to the body politic what the heart is to the natural body, (all the great operations of your Government being carried on here,) it is most obvious that this city should be upon the line of such interior avenue, if constructed for federal purposes.

I will also, before I approach the main argument, advert to the reasons operating upon the committee, in giving its preference to the western, as contradistinguished from the metropolitan and middle routes. It is only necessary to glance at the map of the country to New Orleans, in order to see that a road from this place to that city cannot be constructed upon a meridian line, because upon such line your course would intersect the summit ridges of the lofty Alleghany, where, in many instances, the foot of man has been seldom placed; and I suppose it is not expected by any one that our

MARCH, 1830.]

*Buffalo and New Orleans Road.*

[H. OF R.]

conduct should, in this particular, conform to the ancient Romans, in a strict adherence to direct course, regardless of all other considerations. This road, if made, must be carried north or south of the Blue Ridge; and the question is, on which side shall it run? It must be admitted that, for mail purposes, this road would be beneficial on either side, beyond which little benefit could be expected from either of the southern routes. What are the facts? The southern routes, as surveyed, both cut at right angles all the navigable rivers and roads of the south, running from the mountains to the seaboard, the metropolitan at the head of sloop, and the middle at the head of boat navigation. What follows? For war and commercial uses, the benefit of such improvement on either line could only subserve those great purposes on the short distances between the points of intersection. What, furthermore, is the fact? Commerce is carried on from the mountains to the seaboard; defensive operations, in war, necessarily must run in the same channel: this road, then, to the Carolinas and Georgia, upon either route, leads from, not to, the seaboard, to which the military arm of the South must ever be extended. Nobody can believe, that, with a seaboard so extensive as that belonging to the Carolinas and Georgia, and with a population of the character which is found amongst them, their physical force is to be furnished to Mobile, Pensacola, or New Orleans, in case of invasion. It is therefore to the section of country intersected by the western route, that Mobile and the Gulf of Mexico must look for their support. Moreover, this bill is to construct a road through the heart of the country to New Orleans; neither of these routes reach that point, but each terminates on the Tombigbee River, in Alabama, and connects with New Orleans by descending to the bay of Mobile, and thence around by water. On this plan, what would be the utility of a great part of this road, upon the supposition of Mobile or the bay being occupied by an enemy's fleet? Useless to a great extent. Sir, I now hold in my hand the map of the several surveys made by the engineers, from which it will be seen that, if an entire land communication were not the object, the western route, on account of distance, independent of every other consideration, is to be preferred. Why so? Because, if you fancy the Tombigbee River as the point of termination, the western route approximates, within some thirty or forty miles, those southern routes at that river upon which they terminate; that being the fact, it is only necessary to see the extended land communication from that point passing through part of Mississippi and Louisiana, in order to account for the reason why it is made to approximate either, as it regards distance and cost.

But, as I will have occasion to speak more at large in reference to the western route, in following my friend from Virginia, I now come

to the main issue. Is this road, and upon the western route, necessary for the purposes of this country on the three great and fundamental considerations which should combine in its construction, commercial, mail, and military purposes? Following the gentleman's own course, I will examine these considerations separately; and, first, commercial advantages. The gentleman emphatically asked, of what use is this road in a commercial point of view? and proceeded to show that it cut at right angles all the navigable rivers in its course, and would not be useful for commerce. I answer that objection by saying, if his remarks had been applied to the southern routes, there would have been some justice in them; but, as applied to the western route, his objection is altogether gratuitous, and is predicated upon a total misconception of facts. Look, for a moment, at a map of the country traversed by this road, after crossing into the valley; instead of intersecting all the navigable rivers at right angles, there is but one that is in any tolerable degree navigable, for near five hundred miles, (I mean the James River.) If I recollect the country through which this road is to run, between Staunton, Virginia, and Knoxville, Tennessee, the only rivers upon which it touches, of any size, are the James, New River, and Holston. How is commerce now carried on throughout that section of the country? In wagons, if indeed gentlemen will agree that commerce can be carried on in that vehicle. Sir, I tell the gentleman, that my whole journey from this to my residence (except fifty miles) is upon this very road, and I can inform him, if he did not before know the fact, that the merchandise consumed, as far west as Knoxville, is now transported from the eastern cities upon that very road, bad as it is. It is no uncommon thing to see caravans of some eight or ten wagons passing upon it to the West; and, in the nature of things, it must ever be the channel of commerce for a considerable portion of that interior section. This road, then, whether on the McAdam plan, or that more humble, as contemplated by the bill, is all that some of the gentleman's own fellow-citizens can ever expect; and to them it is what the majestic rivers so eloquently described by him are to more favored quarters. Is, then, the accommodation of those who are thrown so far within the interior as to be untouched by the refreshing showers of the Treasury upon the tide water, a matter of no moment to the representatives of the people? They are part of the American family; and, let me tell him, took their part, yes, a full share, in the difficulties of their country, whatever may be their portion now.

Let me tell the gentleman, moreover, that, in passing beyond the western boundary of his State, we come to a section of this Union with which the individual who now addresses you has the most perfect knowledge. That is the land of his nativity; and he takes the liberty

to say that he does arrogate to himself the right to speak of the wants and necessities of that people, as well as the commercial advantages to be conferred by this road. There the bounties of nature have been bestowed in an eminent degree. Little else is wanting than commercial facilities in order to finish the picture upon which is delineated real prosperity. There you meet with a fertile soil, salubrious clime, inexhaustible mountains of iron ore, furnaces and forges, nail and steel factories, with water power and facilities for all kinds of manufactures. Within the gentleman's own State, and near to the margin of this road, the salt works, from whence an immense stretch of country, east and west, must (in the very nature of things) ever be supplied by means of this road. What is the fact? That indispensable article for animal subsistence is now transported in wagons to the Holston River, within the district from whence I came; and then, relying upon the bounty of Heaven to furnish rain to swell the tide, is now transported to all that stretch of country above the Muscle Shoals. The advantages of that section of our common country do not stop here. Its facilities in producing subsistence for live stock, and all the necessary means of human comfort, are not surpassed by any other quarter. Yet, what is the fact in relation to that highly favored country? They have nature's rude works to contend with in their intercourse with their fellow-citizens of adjoining States. Need I tell this committee that the edge of industry and enterprise is blunted, for the want of some channel through which to dispose of the surplus products of that valley? Let facts speak for themselves. When wheat, that indispensable article of man's subsistence, commanded from a dollar to a dollar and a quarter per bushel in other quarters of this Union, its current price there was from thirty-three and a third to fifty cents. Why was this? Because of the want of outlets to market. So in relation to iron and all the other products and manufactures in that quarter; and what has been the consequence? Many of the citizens of that part of East Tennessee from whence I came, have sacrificed their lands and surrendered their local attachments, and have gone to other less eligible situations (in most respects) in order to gain a location where the products of the labor of the husbandman would promise a just equivalent, by reason of being permitted to enter into the markets of the seaboard. Thus much, without going minutely into detail, in answer to the gentleman's question, as to the necessity and commercial utility of this road.

The gentleman next examined into the utility of this road for mail purposes. In that point of view, he has conceded, to some extent, its utility; but, upon counting, in dollars and cents, its cost and income, he has also pronounced upon it his unqualified negative. If the gentleman imagines that the most sanguine

friend of this measure ever calculated upon the road, when completed, either upon the plan proposed by the bill, or any other, being the productive source of revenue to the Government, I tell him that he is laboring under a most gross delusion. Sir, it was never dreamed of by any one of its friends. But it was believed that this, combined with the other cardinal inducements for such work, (I mean the military and commercial uses,) would, when taken together, present almost irresistible inducements to the National Legislature. Do gentlemen calculate the net income of all their weighty appropriations to the maritime defence of the country? Did they, in the construction of the great Cumberland road, keep in view the restoration of its cost in dollars and cents? No! Like this, it was a matter of national concernment, and was embarked in upon more liberal and enlarged views than those which the gentleman would now extend to this. But let us look at it as a mere post road. What is now the rate of mail transportation upon that route? If I am not misinformed, it will average about fifty dollars a mile. What, is it probable, would be the reduction upon the road when completed? Upon a fair calculation, one-half the present amount of transportation would be saved, taking into consideration the increased travel upon it, and other advantages to result from its improvement. This of itself would produce some forty thousand dollars of a saving to the Government, to say nothing of the importance of reducing the time of travel.

I now pass on to the use of this road to the military operations of the Government in time of war. Sir, whatever the gentleman may think of it, this, to me, is the primary inducement. What I have said in relation to the local benefits, in a commercial point of view, to result from the measure, I wish to be distinctly understood as being accessory to, and consequent upon, this paramount consideration, national defence. This, instead of furnishing an objection to such improvements, on the contrary, establishes their importance, in a national point of view. When was it, or where, that a work of improvement, conducing to the general good, did not also address itself to the local interests of more or less of the citizens of this confederacy? This follows inevitably, because, as a general rule, your men and munitions of war are transported upon just such roads, rivers, and canals, in time of war, as are used for commerce in peace. This is obvious, because, in the nature of things, attack will be made at the same places at which are your great commercial deposits. The gentleman has asked if troops and munitions of war would ever be transported from Buffalo to New Orleans, and *vice versa*. I answer, no. Nobody ever thought of such thing. But it was believed that, in case of war, and Buffalo again becoming the theatre of that war, men and munitions could be transported from the interior of Pennsylvania and the adjacent States,

MARCH, 1830.]

*Buffalo and New Orleans Road.*

[H. OF R.]

to that quarter. It was also believed, and confidently, too, sir, that, in the event of Orleans being again attacked, troops from Western Virginia and Eastern Tennessee could be marched upon this road to its intersection with the Tennessee River, and, when improved for navigation, could thence be transported to the defence of Orleans; whilst those parts of Alabama, Mississippi, and Louisiana, could be marched upon this road. Sir, it was furthermore believed that Mobile being the point of attack, West Virginia and East Tennessee were not only interested in it as their natural channel of commerce, but, from their geographical position, were the legitimate allies of that defenceless point. This road, and this alone, opens to the southern part of Alabama the most speedy, natural, and efficient means of defence.

But, suppose, for argument's sake, I were to admit that this road, running nearly equidistant between the southern seaboard and the Ohio, and part of the Mississippi River, would not of itself furnish the full means of reaching all the exposed parts on the Gulf of Mexico. What then? Would it follow that this road ought not to be constructed? Surely not. It would only prove that, when constructed, the full means of facilitating the defence of the country were incomplete. I will now ask the gentleman from Virginia, and all who stand in opposition to the passage of this bill, where, on this continent, can they point the finger to a portion of the Union through which a road can be made, combining the advantages that this will afford? I said, in the commencement of my remarks, that it was intended for a great interior communication from north to south, with which this Government or the States might, from time to time, connect other and less important ones, and thereby attach to them much of the value of this great improvement. Construct this road, pass the bill for the road from Zanesville, Ohio, to Florence, in Alabama, and you do—what? You place the States of Tennessee and Kentucky, the troops of which are disposable, because that they have no frontiers of their own, in the condition in which a skilful commander would the interior force in the square of his encampment. You keep them in readiness to push to either point where danger threatens.

This being a question submitted by the gentleman from Virginia to the American people, I shall have failed in presenting it in its true character, if I stop here.

I say to the gentleman, and proclaim to the American people, that this road, and upon the route delineated, in part, in the bill, so useless, in his opinion, for military purposes, is the identical road traversed by the East Tennessee troops for more than three hundred miles, in search of the enemies of their common country. On the margin of this road it was, where your gallant troops encountered the appalling horrors of famine, when upon its line, and not farther distant than three hundred miles from

the scene of their suffering and woe, there was bread, and to spare. Has the gentleman forgotten, or does he suppose you have, that, for the want of this very road during the war, and other facilities in defence, countless millions of the public money were squandered in the article of transportation? Sir, I will call to the recollection of my friend a single fact connected with this subject. In the vicinity of this road, in the southern part of Alabama, the Government was compelled to pay from fifty to sixty dollars a barrel for flour, when, at the same time, the current price, in that part of East Tennessee in which I reside, and which is intersected by this road, has never, to my knowledge, exceeded from three to five dollars. Let this fact, without comment from me, speak for itself.

But, sir, the enormity of the price attached to articles of subsistence, during the war, was not all; your exhausted Treasury, by reason of improvidence and prodigality, might, and has been, replenished. Sir, more than money wasted, was the melancholy jeopard of human life, occasioned by the exposure consequent upon wading rivers, creeks, and swamps, on account of the want of the very means of defence now contemplated, and upon the very track delineated in this bill, which, in the estimation of the gentleman, presents so useless a project, as to merit an appeal to the source of all power, the people. I ask my friend from Virginia, what estimation he places upon human life? Would he coldly sit down and calculate its worth in dollars and cents, as he has done the cost of this road? Sir, I answer for him; I know him too well; he would not. But, sir, all the arguments and inducements flowing from the practical results of the late war are to be obviated by assumptions of supposed results, which I deny. The gentleman says that things are not again to transpire as they did during the late war; and why? Because, said he, the density of our population will enable the frontier to defend itself. This delve into futurity is beyond my ken, and my objection to it is, that it bids defiance to experience, that surest guide. It is quite too flattering, and is based upon speculative opinion, against established facts. In matters of everyday concern, confidence might be elicited; but in a matter of such interest as the safety of the republic, I have been instructed in that school, in which it was an established maxim, "Judge the future by the past;" to do which, most effectually, in time of peace, prepare for war; construct this great road from north to south, upon which you will be enabled to throw your disposable forces from the centre to the extremities, without jeopardizing life and treasure—save your high-minded countrymen and yourself from the humiliating recurrences of the late war, here, as well as elsewhere.

THURSDAY, March 25.

*Pay of Members.*

The following resolution, laid on the table some days since by Mr. McDUFFIE, was taken up:

"Resolved, That the Committee on Retrenchment be instructed to report a bill providing that whenever the first session of Congress shall continue for a longer period than one hundred and twenty days, the pay of the members shall be reduced to two dollars per day from and after the termination of the said one hundred and twenty days; and that whenever the second session of Congress shall continue for a longer period than ninety days, the pay of the members shall be reduced to two dollars per day from and after the termination of said ninety days."

Mr. McDUFFIE said that the resolution spoke its own importance, and superseded the necessity of any arguments in its support. He would, however, say one or two words on the subject. The adoption of the resolution, while it would not impair the legislative efficiency of the House, would save at least one month of the time now consumed by Congress at every long session. He had made an estimate of the saving which this would produce, and had ascertained that it would save the sum of seventy-five thousand dollars each year of its operation; and at the same time the public business would be well done. He had made another estimate—that if Congress sat five months, the average pay of the members would be seven dollars a day; this was an adequate compensation; but, if the members chose to attend assiduously to the public business, and complete it within the time prescribed, they would still receive eight dollars. The effect of this resolution, he was confident, would be to increase attention to the discharge of public business, without diminishing the pay while here. It was universally agreed (said Mr. McD.) that the "compensation law" contained at least one wise principle—that of a salary compensation instead of a *per diem* one. The only objection urged against it, and the cause of its unpopularity, was, that it was enacted by those who were to receive its benefit. He, however, differed from the general opinion on the advantage of the salary principle. He thought it would operate as too powerful a stimulus on members to get through the public business, and that it would be done too hastily. His proposition combined both principles, and the advantages of both without their defects. In every view of the subject, therefore, he conceived it would be one of the most effective measures of economy ever proposed by Congress, in regard to itself.

Mr. DWIGHT concurred in the principle and expediency of the proposition. The business of Congress could be as well done by the first of April as the first of June; and when once the limit was fixed for the earlier day, there would be no difficulty in completing all the business which it was proper to perform. He hoped the resolution would pass.

Mr. WHITTLESBY said, the object of the

gentleman from South Carolina was to hasten the business before the House, and that he would most cheerfully unite with him in accomplishing it. But he would suggest to the gentleman whether his object would not be more certainly attained by accepting a modification that he would mention. The gentleman from South Carolina has given it as his opinion that the business of Congress may be done in four months, take one session with another. Mr. W. said he thought if members would faithfully discharge the trust reposed in them, that it might be done in three months. We have heard much said of organizing a business party in this House, and gentlemen have patriotically tendered their services as privates; but there appears to exist a great reluctance against officering the corps. He said he was one who was disposed to put the party under complete organization. And he would propose that forty-five members enter into a solemn stipulation that they will sustain a call for the yeas and nays whenever a motion shall be made to adjourn before four o'clock. He would have this corps persevere in keeping the House in session; and if one should prove treacherous and desert, he would have him tried and shot. Notwithstanding what we have heard said about a business party, it was no longer than last Saturday that a motion was made to adjourn at about two o'clock, and, on a motion to call the yeas and nays, only thirteen were found to sustain the call, when it was known to gentlemen that there was public business of great importance to be acted on, and it was also known that there are claimants here, who will be inevitably ruined unless bills for their relief pass. We have been in session one hundred and nine days, during which time the House has met only seventy-nine days. We have enacted thirty-four laws, where the bills originated in the House, and five where they originated in the Senate; sixty-one bills are before the Senate that have passed the House, and fifty-four are before the House that have passed the Senate. The whole number of bills reported to the House is three hundred and seventy-nine, and the number of resolutions adopted is four hundred and eighty; and this mass of business is to be left unacted on, or so hastened through, that very few members will know what provisions the bills contain. The correct mode of legislating is to commence the session with a determination to attend to business—to prolong the daily session of the House, and not adjourn from Friday to Monday. The excuse offered by gentlemen for adjourning has been that they have business at the departments. Mr. W. said he came from a section of the country where some claims remained unsettled, and that he found he could generally transact the business confided to him better by writing than by a personal attendance. The business of the departments was interrupted by the calling of the members, and the officers, he did not believe, had any desire to see them. It was

MARCH, 1880.]

Pay of Members.

[H. OF R.]

very rare that an answer could be given at once, and it was generally transmitted through the post office. He said he considered the excuse for adjourning over as groundless, and that the time was spent in amusement. The proposition of the gentleman from South Carolina will punish the industrious with the negligent and inattentive. He was one who believed, with the flourishing condition of the Treasury, that eight dollars a day was not too much for a member to receive for his services, if his time was faithfully bestowed on the business of the House. He knew there were members who devoted day and night to mature business, and to attend to it in its progress through the House. He was unwilling that these should be curtailed in their daily allowance because others were remiss in their duties. The modification he would suggest to the gentleman is this: that no member who is not in attendance on the House when it is called to order in the morning, or who shall be absent during the calling of the yeas and nays, without rendering a satisfactory excuse for his absence, shall be entitled to *per diem* pay for that day. Gentlemen need not apprehend that there is any thing humiliating in rendering an excuse to the Speaker, if they are detained from the House by business that could not be dispensed with; much less is there any thing objectionable to the most delicate sensibility in making such excuse, if the detention arises from sickness. He would go further: he would have a list of the absences published in the papers that published the laws, so that the constituents of any member might know how he spent his time here. If the people were apprised of our neglect of duty, they would correct the evil. The object of having the House composed of two hundred and thirteen members, is to unite the intelligence of that number on every proposition that is acted on; but whoever will take the pains to examine the list of yeas and nays, will find that in most cases, unless it be on a political or on some great national question, we rarely have more than a bare majority for doing business. He would throw the responsibility on every member, and ensure his constant attendance. He said he was willing to unite in any measure that would despatch the business; but he feared the present resolution would not accomplish that object—that we should waste the time of the session until we came to the allowance of two dollars a day, and then that we should leave the business undone; and for that reason he expressed a hope that the modification suggested would be accepted by the mover of the resolution.

Mr. TUCKER said, it had been his object to fix the day of adjournment. He was gratified with the resolution offered by his colleague. The gentleman from Ohio said he believed the business of the House could be done in three months. Why, then, did not the gentleman vote for the proposition, and introduce his own plan afterwards?

Mr. GOODENOW made some remarks, which he concluded by moving the previous question—yeas 42. So the bill was not seconded.

Mr. ALEXANDER said, that, from his experience here, and after much reflection upon the subject, his mind had been brought to the conclusion that some such principle as the one proposed in the resolution was necessary to be adopted by Congress to enable us to do justice to the interests of the nation with which we are charged. When (said Mr. A.) I first had the honor of a seat here, I was of an opinion that the compensation allowed was but a reasonable pay, considering the extravagance at that day, and the depreciation of money. But the case is now different; the value of money has appreciated, and every thing become proportionably cheaper; and I believe the only corrective against the abuse of the time of Congress and mischievous legislation of which the people have so much right to complain, will be found in the remedy proposed, which carries along its own limitation as to the period of our sessions. What (said Mr. A.) has been the fact of late years in regard to the history of our proceedings, and of which there seems to be no prospect of a discontinuance? Why, the first three or four months of the first session of Congress, sufficient for all the necessary purposes of legislation, have been usually consumed in idle and unprofitable debate, connected with one's own personal aggrandizement, or in projecting schemes for party or political purposes, little calculated to promote the public interest. We find, during the late war, when the interest of the country was concerned in conducting it to a successful conclusion, amidst the most violent opposition, Congress rarely ever sat the first session beyond what is now the usual period of the termination of our labors. We are necessarily led to inquire into the causes, and see if there exists a necessity for it or no. I can perceive but two, and two only, neither of which, in my judgment, will longer justify a continuance of the practice.

The attention of Congress having been withdrawn from the theatre of war, it was thrown upon the domestic concerns and relations of the country, with many of which it had nothing to do; and hence have sprung up all the unhappy differences, local divisions, and calamities, with which we are surrounded, that have goaded on the people to a state of desperation. This Government, from having been confined to our external relations chiefly, and a few internal regulations, has undertaken to regulate the whole labor and industry of the country, and thereby drawn within its vortex a sum of legislative powers properly belonging to State jurisdiction.

The great evil of this Government, as of every other, and of which the people are convinced more and more every day, having experienced it in a greater degree, probably, than any nation under the sun, is the immense mass of legislation

with which they are afflicted. Besides four and twenty State Governments, acting directly upon them once a year, they have an annual Federal Legislature, with all its ramifications and corruptions preying upon them with a cormorant's appetite, to a degree beyond human endurance. While I admit in theory it is perhaps the most beautiful in the world, when confined within its proper limits; in practice, I am not sure, without reform, it will prove the most tyrannical and oppressive that the ingenuity of man could have devised. What does it matter, whether the people are taxed in a republic or a despotism? It is all the same to them: and it seems that injustice, violence, and rapine can be as well exercised in the one as the other. Nay, more securely, because it works by stealth under a false denomination. Now, sir, as I have no well-grounded hope of an amendment in their condition—as I perceive the same legislative course which has been pursued for several years past, is likely to be continued—the same system of taxation and unequal distribution of the funds of the nation to be kept up as heretofore, I must look out for the best protection for them that I can, against what I conceive to be their own worst enemy—too much legislation. And this, I think, will be found in the reduction of the pay of the members. I know it to be a delicate subject, which touches the nervous sensibility of every one. But if we are in earnest in the professions that were given to the people at the coming day of a reform in the abuses and extravagance of the administration of affairs, and which they have so much right to expect at our hands, let us go into the good work, and show a devotion worthy the cause in which we are engaged. After the example set us by the Executive head of this nation, who has gone forward with a firmness and decision that bespeak his character, holding this language on his elevation, that “the recent demonstration of public sentiment inscribes on the list of Executive duties, in characters too legible to be overlooked, the task of reform;” relying upon our co-operation, we should be unfaithful to the trust reposed in us, were we to halt and hesitate in so eventful a crisis. What has been done in this respect after the laborious and faithful investigation of the Committee on Retrenchment the last session, and the parting voice of the able chairman who committed to his successors the charge, with the hope that it might be prosecuted to a successful issue for the benefit of the people? Nothing but the discontinuance of the draughtsman of this House, while the other measures rest silently on your table, or sleep the sleep of death within the bosom of the committee itself. This is one of the measures they recommended to our attention.

I take it, sir, there are two principles connected with this subject, which must always enter into the character of every legislative body. The one of interest, the other of honor. If it were possible wholly to attain the latter,

it would, no doubt, be the best and safest for the country. But as it is considered with us that the “laborer is worthy of his hire,” and it is not expected that any person can serve here without a reasonable compensation, the great object, it seems to me, should be to produce the happy combination of the two, in such manner, that while the one offers a sufficient inducement for talents and virtue, the other destroys the temptation. This, I think, will be accomplished by the proposition now before us.

Moderate salaries are consistent with the spirit and principles of our institutions; and in proportion as the value of our own pay is enhanced, does it regulate every thing else connected with the operations of Government. I confess that I have no faith in any improvement being made in other respects, until we direct our attention here. I do not say that it will be proper to follow up this example in regard to all the other officers of Government, as proposed by a resolution now on your table, because these, in some respects, depend upon entirely distinct principles. If they are faithful and vigilant in their respective places, it is but right that they should receive a just and adequate compensation for their services.

But the nation expects, and has a right to demand, something at our hands, in relation to those great and important expenditures which have been so wastefully and extravagantly lavished away; and there seems no likelihood, at present, of any change for the better in this respect.

As the hope is a vain one which I entertain of any thing like a recurrence to the original principles of the Government, the only safety and security for the people, that I can see, will be in the economical administration of affairs in every department thereof. And I rather think this will at last be found the only distinction between a republican and monarchical form of Government. Whether even this shall be accomplished, we have yet to learn. From the disposition that has been manifested, the progress of measures before this House, and the character of some that have passed from before us, we are met with despair even here; in what, then, I ask, have the times differed from those that have gone by? and how can we stand justified before the people who were led to expect important and radical changes? I say nothing of the head of this administration, from whom we have the assurance that, as far as depends upon him, he will not be behind us in the great work of reform. The defect is here, and he can do but little without our aid. It is, I conscientiously believe, sir, in the pay of the members, offering an inducement to continue here longer than is necessary for the transaction of the real business of the nation, doing, as they always must, mischief, when good is unattainable. I am, therefore, for striking at the root of the evil, and making a seat become here what it ought to be, rather

MARCH, 1880.]

*Buffalo and New Orleans Road.*

[H. OF R.]

the post of honor than of profit. I, therefore, shall give my cordial support to the proposition now before the House, with a hope that it may be referred and acted upon.

Mr. COULTER then rose, but the Speaker having announced that the hour had elapsed, the discussion was arrested.

*Buffalo and New Orleans Road.*

On the motion of Mr. HEMPHILL, the House resolved itself into a Committee of the whole House on the state of the Union, Mr. HAYNES in the chair, and resumed the consideration of the bill "to construct a national road from Buffalo, by Washington city, to New Orleans."

Mr. CARSON said, the supporters of the bill urged the importance of its passage upon four general considerations, to wit: Commercial, Political, Military, and the Transportation of the Mail.

The constitutional powers of Congress to act upon this and similar subjects, have been assumed and maintained by the supporters of the bill. Upon all subjects of this kind, (said Mr. C.,) involving constitutional questions, which have been discussed since I occupied a seat in this House, I have studiously avoided entering into the debates upon them. I have done so, for the very plain reason that my vocation is that of a farmer; and well knowing that it required professional science and deep research to elucidate and give satisfaction upon those critical points upon which men of eminence, patriotism, and distinction differ. Under these circumstances, I may well be permitted to be, if not without hope, at least too diffident of my own opinion upon constitutional questions, to trouble the House with the reasons upon which they are founded. Yet, as I am the representative of an intelligent and most excellent community, and as I have to act under the obligations of an oath "to support the Constitution of the United States"—that charter under the guaranties of which we can alone act here—it is incumbent upon me to look into that charter, and well examine the powers which it extends to us, and to act in accordance with my own views, however crude; for, sir, on all questions in which conscience is involved, the decision must be made by that tribunal, from which there is no appeal; and however great our respect and deference for the opinions of others, in cases of this kind, we are thrown back upon ourselves, and must alone depend upon our own views of right or wrong.

But, whatever my views may be of the constitutional powers of Congress, or however averse to bills of this kind, I feel that it would be wholly useless to urge them here; and if I should not be suspected of an attempt at rhetorical flourish, I would say, that you might as well attempt to dissolve those marble columns which support the canopy of this hall, by blowing upon them the breath of your nostrils, as to convince, by force of argument or powers of eloquence, those who have made up their opin-

ions, or who, from the force of circumstances, will not be convinced.

Yes, it would be worse than idle; for all the experience which I have had upon this floor but strengthens me in the conviction, that if ever constitutional arguments are argued with effect, it will be in other halls—not this. But do not infer any thing like a spirit of disunion in me, from this remark—far from it. I look upon that as the last resort, resulting from insufferable oppression which a minority may be forced or driven to, when it would cease to be patriotism to submit. But, should that ever arrive, (which may God of his infinite mercy avert!) may we not justly fear that the world may then bid a long farewell to all republics, and to the rights of man?

But, whilst I disclaim any thing like a disposition to disunion in the remark, it may be proper here to say that it partakes something of the nullifying doctrines, which, while they are more pacific in their nature, will be found to be, in my opinion, as effectual in their results. Upon a more proper occasion, I may give my views fully upon this subject of "nullification," as it has been denominated in the other branch of this legislature. But, as I am somewhat the creature of impulses, I shall be governed, in this particular, by subsequent feeling and reflection.

My design is to speak of the expediency, or rather inexpediency of this measure; not that I can add anything to the powerful argument of the justly distinguished gentleman from Virginia, (Mr. P. P. BARBOUR,) for the grounds which he took were so fully and ably occupied, that he has left little to be said by others. I shall, however, take the same side of the question; not that I shall be able to shed a new ray of light upon the subject, but for the reason that the bird of more humble flight may sometimes see what the eagle overlooks.

The supporters of this bill do not claim the power under which they act, as expressly delegated by the constitution, but as an incidental power; or, in other words, as a mean necessary to carry into effect some of the expressed powers.

Admitting this position to be correct, and which I do to a certain but limited extent, the question then naturally arises, does the exigency of the country demand at our hands the exercise of those incidental powers, or the use of those means, to effect any of the objects contemplated by those powers expressly delegated? And if so, another question will also arise: Will this road meet those exigencies, and effect the object? To both of these propositions, I answer in the negative most positively. There is no necessity which demands at our hands the application of the public funds for purposes of this kind. Neither the "common defence," nor the "general welfare," demands it. And if the security of either of the points, to which this road is contemplated to be constructed, did demand the exercise of those powers, and the application of our treasure, I ask in the name of common sense, sir, if this road, a mere paltry



H. of R.]

*Buffalo and New Orleans Road.*

[MARCH, 1839.]

earthen way, would afford the security desired?

But, four general considerations have been urged in support of the bill, and they may truly be said to be most pliant considerations; for they are brought to bear upon all subjects of internal improvement, requiring the public lands or the public money.

It shall be my object to show that not one of those considerations requires that this road should be made. I shall take them up in the order in which I find them in the report of the engineers made to this House at the first session of the nineteenth Congress. And the first in order is its commercial advantage.

It has been gravely maintained that this road is all-important as a line of intercommunication between distant points for the facilities of commercial intercourse, and the transportation of produce and merchandise. Now, sir, admitting the constitutionality, and the propriety of making roads for commercial purposes, is there any one who seriously believes that this, or any other road, can possibly be brought to compete successfully with the mighty father of rivers, and its tributary streams? What, sir! change the channel of produce from the finest rivers in the world, with the powerful agency of steam, propelling boats hundreds of miles in the twenty-four hours, with a mere "earthen" road! When the mighty Missouri shall turn her current back upon her source, and force a passage through the Rocky Mountains, and empty her vast tribute of waters into the Pacific, and the beautiful Ohio shall be brought through the tunnel proposed to be cut by the gentleman from Virginia, (Mr. MEXCER,) and pour her waters into the Chesapeake, then, and not till then, let the gentleman propose the construction of roads through that region of country for commercial purposes.

But what kind of road have we proposed to us by this bill? "An earthen road," sir. Yes, sir, a miserable, paltry, earthen road. The honorable chairman and his committee have not only fallen far in the rear of the march of science and the arts in road-making, but they have gone entirely back to olden times. Earthen roads were the first system of intercommunication known to man. They were superseded by turnpikes, as they are called, which consisted in the application of stone, gravel, and other materials, which improved the foundation, and made it capable of bearing greater weight. Mr. McAdam has improved upon those roads, by a peculiar and regular method of preparing and applying the stone; and from his celebrity in his improvements, has arisen the name of McAdamized roads.

But, above all, is that highest effort of the human intellect, in perfecting a system of road intercommunication, which, for ease, safety, and expedition, challenges the astonishment and admiration of the world.

That system which has outstripped canals, and ruined their stocks in England; and that

system which will supersede canals here, as well as all other systems of the kind, which have been devised by human ingenuity—yes, sir, the honorable gentleman from Virginia (Mr. MEXCER) must hear the appalling, the heart-rending fact, that this mighty monument, (Chesapeake and Ohio Canal,) which, for years, he has been laboring with a zeal and exertion to erect to his memory, and which, no doubt, he had fondly hoped would transmit his name down to the latest posterity, must fall, and must give place to the superior improvement of railroads. I could sympathize with that gentleman if I did not believe that a remedy is within his reach; that is, to give up his exploded canal system, and embrace the railroad plan; and a most happy opportunity now awaits him. Let him unite the interest of the company over which he now presides, with that of the Baltimore and Ohio Railroad Company, and, by a unity of action, and community of feeling, they will find their interests mutually advanced, and the most happy results growing out of the arrangement. I hope I shall be pardoned for this digression. But let me ask the honorable chairman who introduced this bill, (Mr. HEMPHILL,) how he can reconcile it to his vast notions of grand and magnificent internal improvements, and the resources and capacity of this Government to prosecute them, to an indefinite extent, as he set forth in his speech? But what is more, how can he reconcile it to himself, to fall so far behind the advance of the age in improvements, as to propose an "earthen" road as a means to facilitate commerce, and promote the "common defence and the general welfare?" Now, if the gentleman had proposed a plan for the construction of a railroad on some plan commensurate with the greatness and resources of this nation, there would have been some plausibility in his arguments. But, upon what have we heard his beautiful theories and high-wrought figures exhausted? Why, upon an earthen road—a road of mud, liable to be washed by every shower, and subject to the vicissitudes and casualties incident to every season.

Before I take leave of this branch of the subject, I ask leave to read a brief passage from the report of the engineers; we shall then be able to judge of their views as to the commercial importance of this road.

I read from the report of the engineers, which may be found in the 9th volume of Executive papers, session of 1825-1826, document 156, page 22:

"In relation to external commerce," say the engineers, "it appears to us that a road from Washington City to New Orleans will not afford, as to transportation, advantages of national importance; for the road will cross generally all the main water courses perpendicular to the coast; and in the directions and by means of which all the transportations are effective which relate to operations of external commerce."

"However, we have remarked in the foregoing

MARCH, 1880.]

*Buffalo and New Orleans Road.*

[H. OF R.]

part of this report, that the main water courses were crossed by the eastern route at the head of sloop navigation, and by the middle route at the head of boat navigation, therefore a road in the direction of either will accommodate the districts through which it passes, for the transportation of their products to the navigable streams. Under this local (mark the words, gentlemen, local, not general) point of view, the external commerce will become benefited to a certain extent," &c.

Thus we see that, in the view of the engineers, this road would not ensure benefits general in their character, but such as are merely local; and even that, no farther than to afford districts through which it may pass the advantage of transporting their produce to the navigable streams.

This being the case, is there any one who will press the application of the national treasure (which should never be disbursed only with a view to national objects, wherein all the parts are equally benefited) to purposes local in their character, and that to a limited extent? It would be merging the "general welfare" into local welfare, and, against all principle, the greater into the lesser.

Next in order are "political considerations." I shall be brief upon this branch of the subject, as there is only one prominent consideration, in a political point of view, which can be urged, which is, that roads and canals will operate as bonds of union, and more strongly cement us together, and prevent a falling off of the parts. Without stopping to controvert the correctness of the position, it certainly presupposes one of two things: either that there is a disposition in the States to fly off from the centre, or a repulsive action at the centre to throw them off, and hence the necessity of these additional bonds of union.

Nothing, in my opinion, is to be apprehended from the former; would to God I could say so much for the latter! If ever the calamities of disunion should be experienced by this nation, the causes, proximate and remote, will be traced to the action of the Federal Government.

The mismanagement of this central machinery, so beautiful in its conception, and so perfect in its structure, and which worked so harmoniously whilst kept within the legitimate sphere prescribed by those rules expressly laid down for the government of its action, will alone produce those fatal consequences. By overleaping here the constitutional boundaries so clearly defined, by throwing the whole machinery out of gear, and giving a looseness to our operations, propelled on by the force of combined interests, composing a majority against a minority, the latter will be compelled to take refuge under the old relation in which the States stood to each other; that of separate, distinct, and independent sovereignty. The States themselves will cling to the Union whilst there is a hope left to rest on; the oppressions of this Federal Government can alone drive them off.

Perhaps if there were ever a crisis in the affairs of our Government which required additional bonds to hold us together, that crisis is now at hand. But if this road is to be the remedy, the committee have certainly mistaken its proper location. Western Virginia and Eastern Tennessee are not about to fly off from the Union, and therefore do not require this work; if danger is to be apprehended, it is from another quarter. The South is the point to which we should direct our attention. Certainly every political consideration would direct us to the metropolitan route. We must encircle South Carolina with some band, or she, from report, will be off at a "tangent," and that suddenly. But let me seriously ask of every member of this committee, what stronger bonds of union do freemen need, or the States require, than those forged out, wrought, and put in order by the master workmen of the revolution? Link connecting link, forming a chain of government more beautiful in its principles, and beneficial in its results, (whilst acting within the limits of the original design,) than any ever devised by the wisdom of man. What was this design? It was, that all the parts should share in equal proportion the benefits or injuries resulting from the compact; a perfect reciprocity was to be observed and preserved. Under a strict observance of those sacred principles, sir, what have we to fear? I answer nothing, either from external or internal causes. If fears are to be entertained, they are upon the other side of the question; and let me here admonish gentlemen who are seeking to provide additional bonds of union, by cutting canals and constructing roads, to beware lest they by their operations cut the ligaments of the constitution which now bind us together, and which form the only sure and certain ties by which we can remain united. No political consideration, therefore, in my opinion, does require the construction of this road; but, on the contrary, eminently demands the rejection of the bill.

"Military considerations" are the next in order, and to which I shall ask the attention of the committee.

The honorable chairman (Mr. HEMPHILL) set out by telling us that the two points to which this road is contemplated to be run, are dangerously situated, and eminently exposed in case of invasion, &c., and that this is important as a military road for the transportation of troops and munitions of war. With regard to the exposed situation of New Orleans, I beg leave to differ entirely with the honorable chairman. As to Buffalo, I know but very little about it, nor have I sought to know, because I looked upon that end of the road as having been tacked on by the committee, merely as a means of buying up votes, and not that the necessity of the nation required the work. I shall leave that end, therefore, in the hands of others.

What say gentlemen who urge this branch

of the subject? Why, "that New Orleans must always look to Tennessee, Kentucky, Ohio, &c., for men and provisions to protect and feed them in time of war." Well, I grant this; but what further do they urge? Why, "that this road must be made to transport these troops and provisions upon." Now can it be possible that any man, in his sober senses, and under the influence of reason, can, for one moment, entertain the belief that, if this road were made, even one soldier or solitary barrel of provisions, from Tennessee, Kentucky, Ohio, or any other State north of those, would travel over it? What! bring men from the State of Ohio across the States of Kentucky and Tennessee? Aye, and across the Ohio River, too, with its current teeming with steamboats, ready to waft the soldiers and provisions to the point of destination. But no, they must trudge through the muds of Kentucky and Tennessee, by marches of from ten to fifteen miles per day, till they intersect this road (after crossing navigable and inviting rivers) at Florence, Alabama; and then they will have the peculiar advantage of travelling this superb national earthen road from thence to New Orleans.

I invite gentlemen who think despatch and saving of time important in military operations, to calculate how long it would take troops to get to New Orleans by this "national road" from Tennessee, Kentucky, Ohio, &c., and compare it with the ease, convenience, and despatch, afforded by steam power on the navigable rivers which pass through those States and empty into the Mississippi. It cannot be denied that troops from any part of Kentucky or Ohio could get to New Orleans by steamboat conveyance before they could reach Florence, in Alabama, the point of intersection with this road. Under this view of the case, the positions laid down by the honorable chairman, (Mr. HEMPHILL,) with regard to the "exposed condition" of New Orleans, and the necessity of this road as affording means of defence, fall to the ground, and the whole superstructure of argument based upon them falls also.

If further arguments were necessary to show the impropriety, nay, the excessive folly, of making this road for military purposes, they would be found by a recurrence to the history of our last war, particularly in the operations in the southern section of the Union. There was a time when New Orleans was "dangerously situated and eminently exposed;" there was a time, sir, when that city was invaded by a powerful and well-disciplined army; an army, too, stimulated to action by the "booty and beauty" which were promised them. This was a case of great emergency—this was a time of deep and dreadful anxiety; but sufficient for the occasion were the spirits convened, and hastily convened, for the defence of the city. Yes, an army was convened, defeated the enemy, and saved New Orleans. What military road, made at vast expense of time and treasure, were those troops transported over? None;

yet they got to New Orleans, fought the battles of their country, and got home again; and thus will it be ever; this country will always find security in the strong arm of her "citizen soldiers." Dangers may stand thick around them; they only stimulate to exertion. The noblest deeds are done upon the most dangerous emergencies, and the glory of achieving them is the strongest incentive to action. Need I say more? Does the history of all ages that have gone before us, present a solitary example of a nation, at peace with the world, and whose policy it is to cultivate and maintain those pacific relations, preparing for the transportation of troops by large expenditures of public money for the construction of roads in this time of profound peace? But, on the contrary, does not all history prove that the first generals the world has produced, asked not roads over which to transport troops for the advancement of their military operations? Let me ask, what engineers designated the route, or what nation appropriated the funds, to construct a passage over the Alps for Hannibal and his Carthaginians, when he pushed his conquests to the very walls of Rome? Or who directed Cæsar to the point at which to pass the Rubicon, when he pronounced that "the die was cast," and struck the fatal blow at the liberties of his country?

But to come down to the present time—to things which transpired but yesterday, on the other side of the water. Did Nicholas tax his subjects to raise a revenue to open those passes through the Balkan, over which Diebitsch led that army which shook the Ottoman empire to its centre? and which, had they not been stopped by pacific measures, and, I might add, by the interposition of other European powers, jealous of the rising greatness and resources of the Russian empire, the Christian flag would this day have been waving on the walls of Constantinople? It is by the energy of powerful minds and capable commanders, that armies are led to victory and glorious achievements; not by roads for they might lead to defeat as well as victory. And here let me remark that those facilities to military operations are always occupied by the strongest; and such a work might prove a curse instead of a blessing, (as was proved, said a gentleman standing near Mr. CARSON, (Mr. DAVIS, of South Carolina,) upon the Bladensburg course last war.) Yes, (resumed Mr. C.) but I would rather lose the argument afforded by the mention of that disagreeable subject, than wound the pride of the House by recalling their recollection to it.

The "transportation of the mail" is the next and last consideration to which I shall ask the attention of the committee.

I feel that my strength is failing me too much to go into this branch of the subject to the extent I had desired. I will lay it down as my opinion, however, that the framers of the constitution did not intend, by the words "establish post offices and post roads," to confer the power to construct roads, &c., but only

MARCH, 1890.]

*Buffalo and New Orleans Road.*

[H. OF R.]

neant that Congress should designate the roads over which the mail should be carried, and the points at which it should be opened. I shall not attempt an argument, sir, to prove the correctness of this construction, but it being mine, it is sufficient to govern me.

The first inquiry which suggests itself with regard to the expediency of constructing this road for the transportation of the mail is, does any necessity for impediment exist to the transportation of the mail, which requires the application of this sum of money to remove or remedy?

Has the Post Office Department complained of a want of facilities in this particular, and asked the construction of a road at our hands? Or have they even suggested the propriety of the appropriation of any sum of money for purposes of the kind?

They have not; but, upon the contrary, we are informed by the very able report of the distinguished gentleman who presides over that department, that the facilities are now ample, and will be increased as the means of the department will justify, or the public interest shall require. I ask the attention of the committee while I read part of that report, which treats of the very subject now under consideration.

[Mr. C. read the following extract from the report of the Postmaster General:]

"The mail communication between New Orleans and the seat of the General Government, by way of Mobile and Montgomery, in Alabama, and Augusta, in Georgia, will, from the commencement of the ensuing year, be effected three times a week, affording comfortable conveyances for travellers, and the whole trip performed in the period of two weeks, each way, through the capitals of Virginia, North Carolina, South Carolina, and Georgia.

"Lines of four-horse post coaches will also be established, from the first day of January next, to run three times a week, both ways, between Nashville and Memphis, in Tennessee. This improvement was deemed important to keep a regular and certain intercourse between the Western States and New Orleans—Memphis being a point on the Mississippi to which steamboats can come at all seasons of the year; it being contemplated to extend this line to New Orleans by steamboats, so soon as the means of the department will justify, and the public interest shall require it. To give greater utility to this improvement, a weekly line of coaches will also be established at the same time from Florence, in Alabama, (where it will connect with the line from Huntsville,) to Bolivar, in Tennessee, at which point it will form a junction with the line from Nashville to Memphis."

Now, what more can be required? Does not this report also prove that steam navigation will supersede roads for all purposes, wherever it can find water for the boats to run on? The despatch and quickness of steamboat passage from Memphis to New Orleans has drawn the attention of the Postmaster General to that point; and it is already viewed as the route which can be travelled with most ex-

pedition, because of the advantages of steam power. Does not this speak volumes against the expenditures of public money upon roads, when it must be manifest that they never would be travelled for the purposes pretended here as the strong reasons for constructing them? It may be possible that, with regard to despatch, and saving of time, a direct road from this place to the Mississippi River, thence by steamboats to New Orleans, would be the best. But, taking this as granted, it does not prove the necessity of our constructing a road for the purpose. Roads are already made. The mail is now transported from this to Nashville, Tennessee, seven times a week, in post coaches, at a cost of upwards of thirty-four thousand dollars per annum; and this line, sir, as we see from the report just read, is to be continued three times a week to Memphis, and from thence to New Orleans by steamboats. What more is wanting? or what more, in modesty, can be asked?

I shall now turn my attention to the relative merits of the different routes; and, if this road is to be made, I think I can show the propriety of selecting the most direct practicable route.

For all purposes connected with the transportation of the mail, the saving of time, cost of construction, distance, &c., the most "direct, practicable route," as proposed by the amendment I had the honor to lay upon your table some days since, and which was printed by order of the House, and which I shall offer to the committee before I take my seat, is certainly the preferable one.

I lay down, then, as incontrovertible facts, that the route I propose will be better, the cost of construction less, the distance less, and the number of inhabitants accommodated much greater.

Now, if I establish these positions, what member can refuse to vote for the amendment, whether he be for or against the bill?

Mr. CRAIG said he should play the hypocrite were he to attempt to disguise the interest he felt in the bill under consideration. Many of the people whom I represent (said Mr. C.) have a deep and direct interest in the road which it proposes to establish; and if, under existing circumstances, I did not give it my humble support, I should feel a conscious conviction of misrepresenting their interests, and of betraying the trust with which they have honored me.

The representative, according to my political creed, is bound, in all cases, except where the constitution interposes barriers, in this, or any other body, to reflect the wishes and interests of his constituents, and not his own individual views. To do this is happily felt by me not to be less a duty than a pleasure.

Although I am one of those who construe the constitution as denying to Congress a general right to make roads, even though their extent invests them with the characteristics of nationality, yet the peculiar combination of circumstances which exists in relation to this subject,

at this time, rids my mind of all scruples upon this point.

The constitutionality of the measure, as I conceive it, is not now involved. The question is not whether Congress possesses, under the constitution, power to make this road; but it is, more properly, has Congress a right to re-distribute the surplus money in its Treasury, beyond what may be necessary to defray the ordinary expenses of the Government, and what may be applied to the extinguishment of the national debt, among the people of the Union?

A little reflection will satisfy you, sir, that the appropriation of money involved in this bill is an evil (if it be an evil, as some apprehend it to be) which has its root in the existing revenue system. So long as the present tariff of duties is maintained, it is manifest that we shall find in our Treasury a large annual residuum, after all ordinary appropriations have been made. And who can doubt, after what has occurred here, in this session of Congress, that it is the fixed determination of a majority of this body, and, by inference, the determination of a majority of the people of the United States, to persist in the existing tariff system? The question, then, unavoidably occurs, what disposition ought to be made of this surplus money? Surely no one will contend that it ought to lie rusting in our coffers; none will contend that, after it has gotten there, the constitution will require it to remain there. And to what use shall we appropriate it? Can we appropriate it to any more valuable use than to internal improvements?

I would myself have preferred that this surplus of revenue should have been apportioned out amongst the several States, according to their population, for purposes of internal improvement; but in this we, who construe the constitution rigidly, are opposed by a majority. Congress now, as to all practical effects, possesses the power to appropriate the money of the public Treasury to objects of internal improvement, as fully as if the constitution, in so many words, gave that power. Nor has this power been dormant. It has been exerted in a variety of instances.

The money collected into the public Treasury from imposts, &c., belongs to the people in the mass; and it becomes our duty to return it to them by that mode that will most equally distribute it among them, and, at the same time, effect for them the greatest general good. In no way, does it seem to me, can this end be more advantageously attained, than by expending it upon a work like that proposed in the bill under consideration. The road will extend from the northern to the southern extremity of the Union, and, as a road, will accommodate a vast proportion of its citizens; besides, the money expended in making it will be as generally scattered among the people as it could be by being appropriated to any object or improvement whatever. It is utterly impossible, after having collected by taxation a sum of

money from the people, ever to return it to them again individually, in the proportion in which it was taken from them. The nearest approach that can be made to such a distribution is to be effected by throwing it into general circulation, and leaving it to the influence of individual enterprise to control its particular destination. It seems to me, then, that we cannot adopt a better policy, at this time, than to put into general circulation a few hundred thousand dollars annually of the people's money, by constructing with it, for their accommodation, this great national road. You will then have the pleasure of reflecting that you have returned to them, not only their money, but, along with it, a great national improvement. And here, sir, the question is not unworthy your most serious reflection, how far this capital, thus collected, and thus expended, will have suffered diminution when it returns again to its legitimate channels of circulation among the people. Will it have suffered any diminution? As I view the subject, it will not. Then, if it will not have suffered any diminution, is it not a fair deduction that the road will be a clear gain to the people?

The policy of a nation, in regard to its pecuniary funds, is very different in some important particulars, from that of an individual person. It is the policy of a nation to have on hand no greater capital than is sufficient for the emergencies of the time—it is the policy of individual persons to augment their funds as much as possible. The wealth of an individual depends upon himself—the wealth of a nation depends upon the wealth of its citizens; and whether capital be in the private pockets of the citizens, or in the public Treasury, it is alike the capital of the nation. Now, if, without occasioning any sensible inconvenience or distress to the people composing the body politic, a sum of money can be drawn from them in the course of a few years, sufficient to produce a work of great national benefit, a work of the advantages of which thousands of your citizens will be highly sensible, what sound objection, upon the score of policy, can be urged against the execution of such a plan?

There have been, for many years past, large annual balances in the Treasury, which have been, to the nation and the people, dead capital. On the first day of January, 1828, there was in the Treasury an unexpended balance of six millions six hundred and sixty-eight thousand two hundred and eighty-six dollars and ten cents; on the first day of January, 1829, there was a balance of five millions nine hundred and seventy-two thousand four hundred and thirty-five dollars and eighty-one cents; on the first day of January, 1830, there was a balance of four millions four hundred and ten thousand and seventy-one dollars and sixty-nine cents; and, on the first of January, 1831, according to the estimates of the Secretary of the Treasury, there will be a balance of four millions four hundred and ninety-four thousand five hundred

MARCH, 1880.]

*Buffalo and New Orleans Road.*

[H. OF R.]

and forty-five dollars and two cents. Now, sir, it strikes my mind, if Congress had commenced this road four, five, or six years ago, it might, before now, have been finished; and yet no portion of the people would have been sensible of the least pecuniary loss or pressure. And now, sir, if you proceed to its construction, what pecuniary embarrassments can you expect to encounter? The whole sum estimated as necessary to complete the road is considerably short of the balance which, it is believed, will be in the Treasury on the first of January next, and which must be regarded as dead capital, if not employed. What mischief, I ask, will you do? What injury to the people, or any portion of the people, will you do, by appropriating a part, or even the whole, of this balance to the construction of an improvement so valuable as that proposed by this bill will be?

But, sir, I have not yet presented this subject in its most flattering point of view, in reference to the resources of the nation. It should not escape reflection, that in five or six years from this time at most, the annual balance in the Treasury will rise from four, five, or six millions, to ten or twelve, or, if the tariff of duties should be reduced to such a standard as that no one could complain of it as oppressive, to a steady balance, as I believe, of from five to eight millions. When our revenue shall thus overflow, which will certainly be the case after the extinguishment of the national debt, what course of policy shall be pursued? Will it be constitutional or expedient that a portion of the people should sit still and obstinately refuse to participate in the excess of revenue, because it was collected in a manner they did not approve?

By voting for this bill, it may happen that an expenditure of money will be made, advantageous to the country, in the welfare of which I am more directly interested, and that an improvement will be effected, which will directly diffuse its benefits through it. And I know that, to the nation, nothing in the form of money will be lost, by appropriating three, four, or six millions of dollars to this road; because, it cannot be denied, that, if the surplus money of the Treasury be not appropriated to this object, it will be appropriated to some other, perhaps, of less national value; so that, at last, the whole effect of voting for this bill will but tend to decide the choice of Congress in favor of this over many objects, some of which are destined inevitably to absorb your surplus funds. If we, in the South, will not take your offered favor, others, less fastidious, in other sections, will.

I am not disposed, because the world will not go on precisely as I could wish, to fall out with it, and turn cynic. On the contrary, I find it to be the easiest and the best policy, generally, to conform in some degree to that uncontrollable state of things which I find around me. I have no idea of denying myself a fair participation in the blessings of this Government, be-

cause every thing is not done according to my notions of sound policy and constitutionality. It would be too much to expect that my opinions should rule in all things. I can estimate the respect which I owe to the opinions of other gentlemen, by the respect which I would claim for my own.

Whenever a people become so dissatisfied with their Government as to refuse to accept its benefits when tendered to them, they or their Government must be in gross error. If the Government be in such error, (a condition which cannot be induced without corruption,) it should be reformed at all hazards. If the people, or a part of them, be thus in error, the cure is to be expected from their own sobered reflections.

It has been intimated here, and elsewhere, that the people are, in some sections of the country, in such a state of inquietude as to endanger the Union. In relation to this intimation, I can only speak for those whom I know, or think I know. I cannot believe that there is any portion of the Virginians, much as I have heard since I came here of the nullifying doctrine, who meditate a dissolution of the Union, or who would not deprecate it as the severest calamity. Sir, I think I know the temper of Virginia upon this subject. I have had many opportunities to know it; and I may say, that, so far from harboring any wish adverse to the Union, her sons would be among the first, if danger threatened, to rally round its sacred standard. Nor can I do my fellow-citizens of South Carolina, to whom allusion has been made in this debate, the injustice to believe that her sons cherish any such design. It may be thought extravagant, after what we have witnessed in the other branch of Congress during the present session, but I do not hesitate to say it, as my opinion, that the approach of danger to the Union—the common palladium of their liberties—would again unite even old Massachusetts and South Carolina in those strong bonds of affection which held them together in the struggle for independence.

Go among the common people, who form the body and strength of your community, and I shall be much deceived if you do not hear another than the language of disunion, even in the South. The hot-headed politician is not at all times to be regarded as affording fair indications of the temper of even the people among whom he resides. His inflammation is very often personal, and therefore does not threaten imminent danger to the Union. Indeed, I believe much less is meant, generally, in relation to this subject, than the language used would seem to import. It may be, and I think sometimes is, intended merely to deter from the prosecution of disagreeable measures.

Having made these remarks, I will now endeavor to answer some of the arguments used by my colleague (Mr. P. P. BARBOUR) for the purpose of showing that it is inexpedient to make the proposed road. I am sorry that this gentleman, and that other gentleman should,

on account of their opposition to it, have thought it necessary to undervalue this road. Sir, if we are to give full credit to their arguments, we could not resist the conclusion, that, if this road would not be indeed a national evil, it would be, at least, useless. The warmth of opposition, I must think, has carried gentlemen too far. The utility of this road is not to be seriously denied by any whose situation enables them properly to estimate it.

The honorable gentleman from North Carolina (Mr. CARSON) has advanced the opinion that it will not be even an indirect accommodation to the people of Kentucky. My situation enables me to correct this misapprehension. I live directly upon the track along which it is proposed to construct this road; and I do know, that many Kentuckians do, yearly, use this track, and that great quantities of stock are taken along it from that State to the interior of Virginia, and sometimes to Pennsylvania.

My colleague (Mr. BARBOUR) asked, will this road be of any commercial advantage? It will run, (said he,) a great part of its way, between the waters which flow to the East, and the waters which flow to the West, crossing some of them near their head springs, at right angles: and almost in the same breath said, that if the road ran parallel with any of these navigable waters, it would be still of less commercial importance. To what does this argument amount, except to this: that although the road is most judiciously located, in reference to the interior navigation of the country, yet it is wholly useless. Who can believe this? What country was ever so situated as not to feel the advantage of good roads. The gentleman here, as indeed throughout, seems to have been under the influence of feelings excited by the warmth of his opposition.

The gentleman next intimated that the estimate of expense in the bill was far too low; that the road would, more probably, cost ten or twelve millions of dollars, than two and a quarter millions. Now, in answer to this remark, I have only to say, that, whilst it is undeniably true, that ten or twelve millions will make a better road than two and a quarter millions, it is equally true, that two and a quarter millions will make a very good road. Again, the expenditure of two and a quarter millions upon this road will not, as insinuated, lay Congress under any obligation to expend a further sum upon it. But if the prosperous state of the Treasury hereafter, combining with other circumstances, should make it expedient, Congress may, in its discretion, appropriate additional funds to that object. I cannot see that Congress may not, as I cannot foresee that it will be wrong to do so, at some future time, say fifty years hence, if you choose, cause the whole line of this road to be Macadamized.

Mr. SMYTH said, I have had no concern whatever in forming the bill now before the committee. I am to vote upon it; and I will do

my duty to my constituents, the commonwealth, and the constitution. I will very briefly discuss first, the power claimed by this Government to make roads, and assume jurisdiction over them; second, the power to appropriate money for the purpose of making roads, without assuming jurisdiction over them; third, the power to aid internal improvements, by subscribing for the stock of companies incorporated to make them; fourth, the power to appropriate money in fulfilment of a compact; fifth, the power conferred on the President by the bill; sixth, the general expediency of this appropriation; seventh, the particular utility of the road proposed to be made.

The gentleman from Tennessee (Mr. ISACKS) contends that the power to establish post roads, conferred on Congress by the constitution, is a power to make them. I contend that "establish," wherever used in the constitution, signifies, to give legal existence, or legal effect. The people "ordain and establish the constitution;" one of their objects is declared to be "to establish justice;" Congress shall have power "to establish a uniform rule of naturalization;" "the ratification of the convention of nine States shall be sufficient for the establishment of this constitution." "Congress shall make no law respecting an establishment of religion." In all these cases, it is obvious that to establish means to give legal effect, to give legal existence, to set up by law. Congress have power "to establish post offices and post roads." Whatever be the meaning of establish, as it relates to post offices, must be its meaning as relates to post roads. The same word, used in different sentences, may have different meanings; but the same word, only once used in the same sentence, cannot have different meanings. Does power to establish post offices signify power to build, to put up brick and mortar? No, it signifies power to give legal existence to offices. So, power to establish post roads, is power to designate, by law, the roads on which the mail shall be carried; and this construction has been acted on by Congress during forty years.

The gentleman from Tennessee (Mr. ISACKS) contends that Congress have power to regulate commerce "among the several States;" and, therefore, may make roads for carrying on that commerce.

Sir, the power to regulate commerce, signifies power to pass laws controlling commerce. Laws are regulations. Regulations are laws. "No preference shall be given by any regulation of commerce, or revenue, to the ports of one State over those of another." The power given to Congress to regulate commerce among the States, is a power to control it, and to prevent the State Legislatures from burdening it by duties, taxes, or licenses, and so on; by which one State might oppress the inhabitants of another. Will the gentleman from Tennessee contend that to make a canoe is to regulate commerce with the Indian tribes? Will he

MARCH, 1830.]

*Buffalo and New Orleans Road.*

[H. OF R.]

contend that to build a ship is to regulate foreign commerce? If not, how can he contend that to make a road is to regulate commerce among the States? Sir, when it shall be proved that canoes, ships, and roads are commercial regulations, otherwise commercial laws, then I will give up this point.

Sir, if there is any question respecting the power of Congress, that has been decided against the claim of power, in a way that ought to be satisfactory, final, and conclusive, it is this. We have the authority of Jefferson, Madison, and Monroe, that Congress do not possess jurisdiction to make roads. Mr. Madison and Mr. Monroe expressed their opinions in the most solemn manner, when rejecting bills passed by both Houses of Congress, assuming this power. The last act of Mr. Madison's administration was to return, rejected, a bill assuming this power. But we have not only the authority of these great names. This House has repeatedly, on great debate, decided that Congress have not the power; and there is not an act in the whole statute book that assumes it. In March, 1818, after a protracted discussion, this House decided that Congress had not power to construct post roads and military roads, by eighty-four votes against eighty-two; and that Congress had not power to construct roads between the States, by ninety-five votes against seventy-one. And when Mr. Monroe had negatived the bill establishing toll-gates on the Cumberland road, and returned it with his objections, on reconsideration, a majority of the House voted against it; a satisfactory proof that it had been passed without due consideration.

Sir, as this power is claimed by implication, and as in forty years not one act has been passed that asserts it, this long *nonuser* should be taken as evidence that it is not contained in the grant; and we should now consider it as settled, that Congress have not power to enter into a State, assume jurisdiction, and construct roads.

I will now consider the claim of power to appropriate money to the making of roads, without assuming jurisdiction. I have not found it in the constitution. But more than fifty acts of Congress, passed during the last twenty-eight years, make such appropriations. The ground on which we, who oppose the construction which authorizes such appropriations, stood, is nearly beaten from under us. The States and the people may construe their constitution; and the construction thereof, by them, must be conclusive. The long use of a power by Congress, by the approbation of the State Legislatures and the people, may sanction the construction of the constitution by which it is assumed. I would like to see the opinion of the State Legislatures taken, to ascertain if three-fourths of them admit that this power is in Congress. The people, by re-electing those who have assumed it, seem to have given it their sanction.

I will next consider the power of Congress to aid internal improvements, by subscribing for the stock of companies incorporated to make them. I have always been of opinion since I had a seat here, that Congress possessed this power as a fiscal operation, which might be necessary if the Treasury was full. It is well known to my colleague, the late Chairman of the Committee on Internal Improvements, (Mr. MERRICK,) that such has been my opinion. If we have a surplus revenue, it would be inexpedient to have it lying in the Treasury, or in bonds, unproductive. It must be a question of expediency, whether money should be thus invested; and I hold that it will be always inexpedient, when we have a debt to pay, and that debt is payable. The object of such an operation should be a profitable investment of our money. The promotion of internal improvements would be an incident. This power, duly exercised, would give to the Government command of the accumulated surplus of its revenue, on any emergency; and it would be very convenient to have fifty millions of productive stock to dispose of at the commencement of a war. This power has been exercised, and we do possess stock to a considerable amount. I am next to consider the power of Congress to appropriate money in fulfilment of a compact. In 1802, the United States entered into a compact with the State of Ohio, on admitting that State into the Union, that five per cent. of the net proceeds of land in that State, sold by Congress, should be applied to the making of roads from the navigable waters of the Atlantic to and through the said State, under the authority of Congress, with the consent of the States through which the road should pass; and, in consideration thereof, the State engaged to exempt from taxes, for the term of five years from the sale thereof, the land to be sold by Congress. In pursuance of this compact the Cumberland road was made. And here again we have the authority of Mr. Jefferson, Mr. Madison, and Mr. Monroe, who severally approved the appropriations for this purpose.

Now, sir, you have the like compacts with the States of Alabama and Mississippi. That with the State of Alabama provides that five per cent. of the net proceeds of lands within the territory, "shall be reserved for making public roads, canals, and improving the navigation of rivers, of which three-fifths shall be applied to those objects, within the said State, under the direction of the legislature thereof; and two-fifths to the making of a road or roads leading to the said State, under the direction of Congress." And, in consideration thereof, the State of Alabama has engaged not to tax the lands sold by Congress for five years; that the lands of non-residents shall be taxed no higher than that of residents; and that no tax shall be imposed on the lands of the United States. Here, then, we have a valuable consideration for the money which we shall appropriate to make this road, leading to Alabama and Missis-



issippi. We owe a debt; we have an unquestionable right to appropriate money to pay it. This appropriation, in pursuance of our compact, is as fully authorized as the appropriation of fifteen millions for the purchase of Louisiana, made in fulfilment of a treaty.

I will next consider the powers granted to the President by the bill. He is authorized to appoint commissioners, who are to lay out the road; he is then to take the necessary measures for the construction of the road; contracts are to be entered into, and releases obtained from the proprietors of lands. No jurisdiction is assumed; no power is given to take and condemn the lands. In adopting measures for the construction of this road, the President must pursue the authority given by this bill, or have recourse to the existing laws.

I will now notice some of the objections made by my eloquent colleague, (Mr. P. P. BARBOUR,) who opposed the bill. He would dissuade Congress from making this appropriation, because there are seven and a half millions of imposts which might be repealed without touching the duties which protect domestic manufactures. Sir, many of those duties which he would thus repeal, protect agriculture; many of them are paid by manufacturers, and they are the only duties which are not imposed for their benefit. Repeal those duties, and you exempt the manufacturers from all burdens. Let me caution Southern gentlemen against repealing these seven and a half millions of duties. Such a measure would render the reduction of the imposts which oppress their people hopeless. Let the whole of the imposts be gradually reduced, so as not suddenly to affect any interest. The manufactories being brought into existence by protection, it ought not to be suddenly withdrawn.

My colleague would not follow the example of France and England, in making internal improvements. The people of those countries are depressed, and many of them paupers. Sir, it was not the canal of Languedoc that depressed the people of France in the reign of Louis XIV. That great work cost five hundred and forty thousand pounds, and was finished in fifteen years. It was the perpetual wars of Louis XIV., which, in his latter days, were disastrous. It was that despicable bigotry which drove five hundred thousand Protestants from their country, and scattered their wealth and arts over all Christendom. It was not the expense of making canals and roads that depressed the people of England. Canals in England are but of recent date; they are made by companies; occasionally the Government gives a small grant. It is the public debt of England that depresses the people. At the end of the year 1701 it was six millions; in 1714 it was fifty millions; in 1775 it was one hundred and thirty-five millions; in 1784 it was two hundred and sixty-six millions; it is now perhaps a thousand millions. Thus, we see that it was the wars of the American and French revolutions

that have involved England in a debt which can never be paid; and this depresses her people. Her hierarchy adds grievously to the burden. The revenues of the Episcopal Church in England amount to about forty millions of dollars, paid to eighteen thousand priests; while eight thousand other priests receive about two millions two hundred and twenty thousand dollars. It is not the expense of internal improvement that has reduced seven thousand of the people of Dublin to live on three half-pence each day. In Ireland, seventeen hundred episcopal priests receive five millions seven hundred and seventy-two thousand dollars, extorted from agriculture, while two thousand seven hundred and thirty-eight other priests receive one million and sixty-one thousand dollars. There is no danger that internal improvements will depress the people.

I will say something of the general expediency of this appropriation. If there is a surplus of revenue to expend in a beneficent way, it should be distributed as generally and as equally as circumstances will admit. This appropriation will be extensively beneficial; seven great States will share in its benefits. This road will extend through the interior of the country, where nothing has been dispensed for internal improvements, and little for any other of the expenses of the Government. Set one point of a pair of compasses at my residence, describe a circle of the diameter of five hundred miles, within that extent, not a cent has been disbursed by this Government for any work or improvement; not a salary is paid within my knowledge, and no compensation, except to members of Congress, mail contractors, postmasters, jurors, and for taking the census. Your expenditures for the army, navy, fortifications, and collection of revenue, are on the seaboard, in the cities, or on the frontier. The interior suffers by a perpetual drain of its money, none of which is restored by the Government. The prevailing policy is to have a revenue above the amount of the necessary expenses of the Government. I did not sanction this policy; but, as it is adopted, as the system is fixed upon us, let a small part of the surplus be expended, according to our compact with the Southwestern States, in the district of my colleague, and of mine.

I am to say something of the particular utility of the road proposed to be made. My colleague (Mr. BARBOUR) supposed it of no commercial utility. Commerce, he says, goes from West to East. He has never been in the southwest quarter of Virginia, and knows nothing of the direction of the commerce of that part of the country. The commerce of East Tennessee and Southwest Virginia does not go to the East. The merchants obtain their merchandise from Baltimore, Philadelphia, and New York. The caravans of wagons which carry on merchandising between Knoxville and Baltimore, now pursue the proposed route three hundred and fifty miles; and, when the road is made, they

MARCH, 1830.]

*Pay of Members.*

[H. OF R.]

may pass through this place, or continue through Winchester, as at present. It is true, that, eastward of the Blue ridge, in Virginia, commerce goes to the East; therefore the middle route, on the east side of the Blue ridge, would be useless for commercial purposes, except that some hogsheads of tobacco, within thirty or forty miles of James River, or Roanoke, might be carried along the proposed road, if made on that route, to those rivers. The commerce of the interior and western ports of North Carolina passes eastward to her own towns, or to Norfolk and Petersburg. The most eastern route through the capitals of the Southern States will only facilitate governmental and commercial correspondence. On the western route, the cotton of Alabama and the south of Tennessee may be brought to, and manufactured in, the towns of the great valley as far as Winchester, and will pass four hundred miles along the proposed road. The engineers have given this route a decided preference; they show it to be the best and the cheapest; it will require less expense in causeways and bridges; and the expense of making the road from this place to New Orleans, should it be Macadamized, would cost, according to their estimate, more than a million of dollars less than making it on the middle route, advocated by the gentleman from North Carolina, (Mr. CARBON.)

The engineers do not seem to have observed the fact, that James River is navigable where the western route passes that stream. There will terminate the trip of wagons bringing from the Southwest produce for the Richmond market. To the other recommendations of the western route, I will add, that the accommodations for travellers, along the great valley, from Knoxville to Winchester, about four hundred and fifty miles, are, in my opinion, not equalled, in goodness and cheapness, on any road, of the same length, in the world. Sir, the road through the southwest of Virginia is an exceedingly important highway. It was formerly the usual road to Kentucky; but the making of the Cumberland road, and the Kenhawa road, has lessened its importance. It is still necessary to the inhabitants of the south of Kentucky, as the gentleman before me (Mr. LETCHER) well knows. They send along it to market vast numbers of live stock, to the northern parts of Virginia, to Maryland, and even to Pennsylvania.

The gentleman from North Carolina (Mr. C.) asks if this road can ever compete with the Mississippi. Sir, the Mississippi does not run near us; and if our branches of that river were navigable, New Orleans never can compete with Baltimore in supplying us with merchandise.

On motion of Mr. SHEPARD, the committee then rose, and reported progress.

MONDAY, March 29.

*Pay of Members.*

The House again resumed the consideration of the resolution offered by Mr. McDUFFIE on the 18th instant, relative to a reduction of the compensation of members, in case they remain in session after a certain period in each session, as specified therein.

Mr. COULTER said: I would not of my free choice say any thing concerning the proposition now before the House. I am induced to do so solely by the accidental circumstance of my belonging to the Committee on Retrenchment, whose especial duty, it seems to be considered, is to aid and abet every gentleman in cutting down and breaking up every part of the machinery of this Government which does not meet with his approbation. As I cannot, in this instance, labor in the vocation which has been assigned to me, it is perhaps due to myself, and only respectful to the House, to state my reasons. If however, this resolution had been offered, as some have been, and I suppose will be again, by gentlemen who love to amuse their constituents, I should not have touched it. It might have come upon the stage, made its bow, and exit, and went off, like its predecessors and associates, in a flourish. But it comes upon us urged and sustained by a gentleman of high political consideration, who is likely to win for it much favor, here and in the nation. It is meet, therefore, that it should be considered with the gravity and respect due to the gentleman from South Carolina, (Mr. McDUFFIE.) I regret that those who now give this proposition their patronage, had not brought it forward at an earlier period of the session, especially as a most appropriate occasion was then afforded them for presenting it to the House. It will be recollected that one bill, concerning the compensation of members of Congress, passed this House about the last of December. In that bill the proposition now under consideration was once contained. But a majority of the Committee on Retrenchment of this year divested the bill of what they considered an unjust and odious feature. Yet, when it was undergoing the action of the House, it was competent for the gentleman from South Carolina, or the Chairman of the Retrenchment Committee, (Mr. WICKLIFF,) to have offered an amendment, embracing this their favorite proposition. Business had not then thickened upon the House, and time, which, it is now said, was then wasted, might have been employed in considering what we are now discussing. If it had then been acted upon, it might, by operating on our avarice, have produced some of the good with which the gentleman from South Carolina feeds his fancy. Now it is too late for this Congress, at all events. But at that time we heard nothing of this proposition. No, not even from the Magnus Apollo of retrenchment. A proposi-

H. OF R.]

*Pay of Members.*

[MARCH, 1850.]

tion in relation to the daily pay of members, which the gentleman from Kentucky (Mr. CHILTON) did then offer as an amendment, received so little countenance or encouragement, that the House refused to order the yeas and nays upon its rejection. I think the House did wisely and well. It is certainly a delicate affair for this or any other legislative body to agitate the question of its own compensation. The necessity of the case constitutes it an exception from the general rule, which forbids public functionaries to be the judges of their own salaries. It has been judged safer, in all free countries, to vest this power in the legislature, though interested, than in any other department. But the delicacy of their position ought to make them cautious in their movements. If they attempt to increase their allowance, it will be ascribed to love of gain. If they attempt to reduce it, ten to one if they either get or deserve credit for patriotism or sincerity. They will most probably be charged with the grovelling design of purchasing popularity, by relinquishing a modicum of their pay, without deserving it by merit. The best way, therefore, seems to be, for a statesman to leave the matter as he finds it, until the people complain. They know how we stand; and if we are entitled by law to more than we deserve, they will demand that we shall set the matter right. I have heard of no voice of complaint among them. Their minds are tranquil, and have settled down for many years with contentment upon the present rate of compensation. They know that we are the nearest power of the Government to themselves—the representatives of their wisdom, their virtue, their feelings, and their patriotism—and they have not demanded of us to cut down our compensation below that of clerks in the public offices; nay, even below that of the humblest messenger employed about this hall. Under these circumstances, I regret that this measure has been brought forward at a period of the session when it can produce no practical result, except that of displacing business well matured, and delaying the action of the House upon measures, the progress of which the public eye is watching, and in relation to the fate of which the public feeling is now engaged. Sir, it appears to me that an economist of time could hardly have been less fortunate in the selection of an occasion or a mode of doing public service. The question of compensation, as presented in the resolution, comes in a form as noxious and offensive as could possibly have been given to it. So far as my recollection ranges over the history of representative governments and deliberate assemblies, whether in free or monarchical countries, I can bring to mind no example or precedent, no proceeding that bears any likeness or parallel to this. It has at least one merit, that of originality of invention. Of what character is it? Is its object to produce deeds of patriotism, of honor—to advance the interests and extend the renown of our country, by appealing to our nobler feel-

ings? No—but by addressing itself to the base and sordid passions—to those feelings which actuate the most degraded and worst of mankind. Looking to the ancient republics, we find that they, when they wished to elicit deeds worthy of a free people, addressed themselves to the higher feelings, to the patriotism, the love of country—the honor and integrity of their public functionaries. That is the mode in which I should like to see the lagging integrity, the slow attention, the wandering thoughts, of this assembly, if such things be urged into concentration and quickened into action. We have fallen on evil times indeed, if our bosoms can respond to nothing but such a call as this. We have experienced a rapid and premature decay, if, at the end of fifty years after the declaration of independence and before the last, lingering, and almost hallowed footsteps of one of those who proclaimed it, have left the earth, we have so lost its spirit, become so degenerate in purpose, as to be urged to duty and honor by no other incentive than a small pecuniary penalty hanging over our heads! Sir, we are required to perform an undefined and undefinable amount and extent of legislation, to provide for the interests, wants, and exigencies of twelve millions of people, and a vast extent of country, in a specified time, or be fined for it. Knowledge and wisdom are thus to be measured by hours, and patriotism by dollars. The iron bed of Procrustes is the only thing I know, to which the resolution bears a resemblance.

The reproach which the resolution conveys, (not designed, I am sure, by the gentleman who offered it,) may be correct or not. I will not undertake to say that the majority of gentlemen on this floor are induced to waste the time, and lengthen out the session, for the purpose of receiving their per diem allowance. There are many members, of whose character, standing, and virtue, I am unacquainted, (the gentleman from South Carolina has more experience than I have,) but there are many with whom I am acquainted; of these last I can say with confidence, and candor, that they are not influenced by mercenary motives, and that while they remain here they are influenced by a sense of public duty, and sustain an actual pecuniary loss. But to them money is not the primary motive to action. Other and more exalted motives actuate them. To them, absence from kind friends, from their accustomed scenes, from the domestic hearth, which I trust comes home to the bosoms of all who are intrusted with a seat on this floor, is sufficiently painful—Spring returns, but not to them return its accustomed joys—daily and hourly they are recalled to the scenes of their home—their hearts yearn after their wives, children, and friends, but public duty, their obligations to their constituents, keep them here. When they have accepted the honor conferred on them, they will remain here so long as duty requires them. To such men this resolution only offers insult—it is addressed to them in vain. But it seems

MARCH, 1830.]

*Pay of Members.*

[H. OF R.]

to be addressed to men of different mould, with whom it may be supposed the gentleman from South Carolina has "sounded the depths and shoals of honor;" and I would ask the gentleman whether even as to them it is not bottomed on a wrong estimate of human nature. Upon the principle of the resolution they are selfish. They have no care for, and pay no regard to, the public interest. Their feelings and passions are absorbed in speechifying, as the word goes, for their own aggrandizement. They will, of course, go on in their usual course until the period when the eight dollars per diem shall cease, and, after having picked up the crumbs and offal of every debate, to make themselves notorious, will go home at the end of the four months, and leave the public business undone. The old adage, that "you cannot bring blood out of a turnip," is too true to be overturned by this resolution. I do not wish to be understood as believing that this is the true character of this House, or any very large portion of it. I believe the members generally to be actuated by as high and honorable motives as any former Congress. It is not requisite I should, in candor, say that they possess the same amount of talent. I know that in this session, as in all former ones, time has been consumed in what has been often called frivolous debate, but still I am satisfied, from the information of those sufficiently qualified to know, from correct and official sources, that we are not behind any preceding Congress in the amount of business actually done, and that we are much ahead of them in important national affairs, well matured by our committees, and now awaiting the action of the House. In addition to this, it ought to be recollected, by experienced gentlemen, that we have had three contested elections, each of which was the subject of warm excitement and debate, and which for the time entirely excluded ordinary legislative business. I know that many "wise saws" have been uttered about a debate of two days on a small Indian memorial. I do not set myself up as a censor upon any gentlemen who may think proper to enter a debate upon any question before this House. They are all of age, and act upon their responsibility to their constituents, and are amenable to the high bar of public taste. But as I did not enter into that debate, and have been generally "a looker on in Verona," I may be permitted to say that it involved an important principle. It ought to be supposed that gentlemen from various quarters of this Union, meeting together here, somewhat strangers, debate from mutual and public instruction. For my part, I listen with pleasure and delight to the effusions of genius, talent, and experience, on any subject, and bear with patience its concomitant evil, garrulity without wisdom. The public never said that the time so consumed was wasted, until some gentlemen here, perhaps with a view of building up their own reputation at the expense of others, made some stir about it. If we could all see our-

selves as others see us, it might, perhaps, be considered that the best way to build up a reputation for business habits, is to attend diligently to the matters before us, without making a parade about it. A close mouth is not only the sign but often the very perfection of wisdom. The discussions of the early part of this session may have led to no practical measure, still they may have awakened public attention, and sharpened public inquiry. I believe there is no valuable institution in this world without some alloy; assembled here from the different sections of a mighty empire—the representatives of a free and intelligent people—overlooking the multitudinous interests of this great republic—exercising the right of free discussion—that great and glorious right—can we expect to have it without some alloy? It is impossible—discussion would not be valuable if it were so controlled as to exempt it from being abused. We cannot have that bean ideal in legislative proceedings which gentlemen seem to desire, and we should be careful lest, in attempting to take away what may seem objectionable in debate, we do not destroy the value of the right of discussion altogether.

The resolution is founded upon an assumed fact, the contrary of which is proved by experience. It would doubtless be a wise measure, if it was satisfactorily established, that the legislative business could be transacted in four months. If not, the resolution ought to be abandoned. How are we to ascertain that the business can be done in one hundred and twenty days, not only now, but in future time? Are we to resort to experience, the sure guide which statesmen ought always to follow, or draw upon our imaginations? We must consult the records of our country, and they will admonish us that it is a gratuitous supposition, a mere fancy, to say that our business can be transacted in four months. I have looked at the sessions of Congress from the commencement of the Government, and I find that, at no period, has the first session of any Congress been less than five months, not even when the population of the country did not much exceed three millions of souls; at times, too, when men of the purest patriotism and most distinguished talents appeared in the councils of the nation; men whose bright escutcheons were never stained with the imputation of eking out a session for the love of their per diem allowance. The first Congress sat, in the two years, five hundred and nineteen days. I admit, that putting the new machinery into operation required more than ordinary time; but in the years '98 and '94, when the whole machinery of Government was in harmonious operation, Congress sat three hundred and eleven days; in '99 and 1800, it sat two hundred and seventy-two days. At that period the population was five millions three hundred and nineteen thousand and thirteen souls, less than one-half of our present population, and the great States in the valley of the Mississippi have since grown

up, as if by magic, claiming the paternal care of this Legislature. But I have turned to another period of our history, in the hope that its example would be more prevalent here. Mr. Jefferson came into power upon the basis of economy and reform, and I believe he had a sincere desire to promote both. But I have looked in vain to find that the first session of any Congress, during that administration, was brought to a close in less than five months. The first session of his administration lasted one hundred and forty-eight days, and the second eighty-eight. Supposing, however, to humor the fashion of the times, that they had some trouble in clearing away the rubbish left by General Washington, and Mr. Adams, in the first Congress, yet the second Congress of that administration, influenced by the strictest economy, conducted by the purest republicans, sat two hundred and eighty-two days. Is it to be expected that this Congress, legislating for more than double the number of people, covering a much wider extent of territory, and embracing six additional States with less of political experience and wisdom, can do the business in two-thirds the time? The gentleman from South Carolina would task us too hard, he would fix a badge of disgrace upon us, unless we far surpass the Roger Shermans, the Albert Gallatins, the James Madisons, of other days. Sir, it may do very well for the gentleman from South Carolina, but it will not do for me. But, if we cannot trust the National Legislature of primitive times for an example, let us look to the State Legislatures. There the members stand in close affinity and contact with the people, under the eye of their constituents; yet it will be found that they consume as much and more time than we do, making allowances for the difference of circumstances under which we operate, and the magnitude and variety of interests for which we provide. I speak with knowledge of the State from which I have the honor to come. The Legislature of that State met one month before Congress, and has not yet adjourned. If the members have done wisely, they will hear, when they return home, the words "well done" from their constituents; because that people look more to the worthiness and value of legislation, than to the ordinary time expended in maturing it. I think, then, I may safely say, deriving my information from that great source of political knowledge, experience, and we should always pursue our path into futurity by the light which beams from the past—looking to this authority, I may safely say that the resolution of the gentleman from South Carolina is bottomed upon a presumed fact, the converse of which is established by experience. Shall we, then, who are intrusted with the concerns of a great nation, be guided by experience, or follow the imaginings of the gentleman? I choose to follow in the path of those wise and patriotic men of our early days, with whom the spirit of the revolution abided, who were honored in their

lives, and, in their deaths, were embalmed in the recollections of our people.

Mr. EVERETT expressed himself as friendly to the object of the resolution, so far as regarded an abridgment of the sessions, but not disposed to employ the means which the resolution proposed to attain this object. He moved to amend the resolution, so as to limit each session to a fixed term, which, he thought, would obviate the objections which had been urged against the resolution in debate, and suggested to him by many of his friends.

Mr. STANBERRY said that he did not like the resolution, and he lamented that it came before the House from so respectable a source. It proceeded upon the supposition that a majority of the members of this House procrastinate the session, for the purpose of increasing their own compensation. If gentlemen can persuade the people to believe this, it will have a manifest tendency to bring us into contempt and dispute with them, and prepare their minds for certain irregular movements against this Union, with which we have been threatened. The truth cannot be disguised, that the people have a deep-rooted attachment for the Union. This attachment is much stronger than a certain class of politicians among us perhaps may wish. Not all our measures for the protection of the industry of the country, and for its internal improvement, complained of as so oppressive by some, will, I am persuaded, have the effect of stimulating the people in any quarter to sanction any of the irregular movements to which I have alluded. Those who may wish to prepare the minds of the people to look with approbation on any measures of this kind, have yet a great work to perform. They must first bring this Government into contempt: nothing would so effectually do this as the passage of this resolution, which would proclaim to the world that we, the Congress of the United States, the immediate representatives of this great people, are public robbers.

But, sir, it is not true that this House, or any considerable portion of its members, desire to remain here without performing any public service, for the mere purpose of entitling themselves to their pay; neither am I prepared to admit that this Congress has been less industrious or less patriotic than any which have gone before us. An immense mass of business has been prepared by our committees, and is now ready for the action of the House. The passage of many of the measures before us, for the internal improvement of the country, and which the state of our finances can at present so well afford, and the passage of the bill on our table for the enforcement of the laws already in being for the protection of the woollen manufactures, are, I believe, loudly called for by a large majority of the people; and if it be one object of this resolution to defeat all or any of these measures, by depriving us of sufficient time to act upon them, it only affords an additional reason for my opposition to it. If

MARCH, 1880.]

*Buffalo and New Orleans Road.*

[H. OF R.]

it were in my power to go any further than to vote against the resolution, I would vote it a libel on the House.

Mr. McDUFFIE replied to Mr. S. with equal warmth, and vindicated his resolution against the objections urged by others.

Mr. SCOTT said that, were it not for the imposing appearance which the resolution now under consideration presented to the view of the public, he would have rested perfectly satisfied (as he had heretofore done on other occasions) with giving a silent vote. And now I regret, said Mr. S., that I have to differ in opinion with the gentleman from South Carolina, who offered it, because I believe his motives were pure, and that his only object was to facilitate the business of Congress; and I now disavow the most distant intention of attributing any improper motives to him. But I feel well satisfied that the introduction of a principle, such as is comprehended in the resolution, would have a tendency virtually to destroy one, the most valuable co-ordinate branch of our republican Government. I mean the representative branch, which is at all times under the immediate control of the people, and ought to be free and unrestricted in its deliberations. In my humble opinion, it would be imprudent, impolitic, and unjust in us, who sit here in the time of peace and prosperity, to limit the sessions to a certain period of time, when we know not the day that troubles and misfortunes may befall us. Yea, sir, there is a possibility, though, I grant, not a probability, that, previous to the end of our present session, an indignity may be offered to our flag upon the ocean, which might render it absolutely necessary for the present Congress to take the matter under their most serious consideration. I hope a kind Providence may avert any such evil, as no one would deplore it more than myself. But this and many other circumstances may occur in future, which may require the solemn deliberations of Congress, when they may require time, and the utmost extent of their talents—whenever national safety may hang suspended on the lips and the wise deliberations of the statesmen within this hall. And, from what I have seen and experienced of the gentleman who is the author of the resolution now under consideration, I, for one, would have as much confidence in his integrity, talents, and opinions on such an occasion, as of any member within these walls. But, much as I have admired the general course which the gentleman from South Carolina has pursued, since I have had the honor of observing it, I must be permitted to think very differently from him on some subjects; and, at present, I feel opposed both to the resolution, and the amendment to it, which has been offered by the honorable gentleman from Massachusetts, (Mr. EVERETT,) because I believe that either of them is at variance with our republican institutions, and that, if either is adopted, and should become a law, the most

pernicious consequences will most inevitably follow. The very principle implied, both in the resolution and amendment, is, that the members of this body prolong the sessions, from the mercenary motives of receiving their per diem allowance, trifling with the business of the people by an unnecessary delay. The gentleman has himself illustrated this view of it most satisfactorily, because he insists that if such a law was in operation, there would be as much business transacted in the term for which they were to receive eight dollars per day, as there is at the present time, when the session is extended so much longer; and he has, but a few minutes since, given it as his opinion that Congress would not sit either at two dollars per day, or without a compensation. When he first advocated his resolution, we were informed that if Congress would sit a month after the eight dollars per day would expire, and then receive two dollars per day, there would be an ample compensation for the session, as the aggregate would be about seven dollars per day. This position, I apprehend, only goes to show that eight dollars per day is too much; because, if seven dollars is "amply sufficient," for a long session, it is equally so for a shorter one; and, if gentlemen are in earnest, and have any desire to reduce the wages of members, I shall go with them most cheerfully to reduce the daily pay to seven dollars, because I believe that sum is worth as much for ordinary uses at the present day as eight dollars was at the time the present pay was established by law; and this will be a certain saving to the Government, and much more congenial to our republican institutions.

*Buffalo and New Orleans Road.*

The previous orders of the day were, on the motion of Mr. HEMPHILL, postponed; and the House resolved itself into a Committee of the Whole on the state of the Union, Mr. HAYNES in the chair, and took up the bill making an appropriation for a road from Buffalo, in New York, to New Orleans by Washington city.

Mr. A. H. SHEPHERD said he rose principally for the purpose of offering an amendment to the bill now under consideration. I have hitherto forborne to do so, from a wish that my colleague (Mr. CARSON) should have an opportunity of offering one that was long since printed and laid on our tables; but as he has twice had the floor, and twice been induced to withhold his proposition, I now feel myself at liberty to present my own; the effect of which will be, as I intimated when I obtained the floor, to make up an issue different from that already pending, by preventing something like an interplea in favor of the people east of the mountains, and bringing directly before the committee the relative claims of the different routes proposed from this place to New Orleans.

These examinations and surveys were executed by order of the Government, under authority of the act of April, 1824, directing the survey

H. OF R.]

*Buffalo and New Orleans Road.*

[MARCH, 1830.]

of such objects of internal improvement as might be considered of national importance. But while it is my purpose to show from them that the routes east of the mountains, as indicated by the reports of the engineers, and especially that termed the middle route, possess advantages superior to those west of the mountains, I must be permitted to express my regret that these documents do not furnish that accurate information so desirable in deciding the perplexing question of the proper location of this road: they exhibit a mere outline, without noticing many of the prominent difficulties or peculiar advantages characteristic of the face of the country through which these surveys are carried. I have understood, sir, that the visit of the engineers detailed on this service was known to very few persons throughout the line of their survey in the western part of North Carolina; and that they neither sought nor obtained, from intelligent individuals, such local information as might have tended to a full understanding of the advantages which that route presented. They seemed to have travelled with the caution and expedition that might have been expected to characterize an excursion into an enemy's country. It is true that, at the time of the performance of this service, some of our southern politicians, both here and elsewhere, had assumed a rather threatening attitude in their denial of the power of this Government to execute surveys, and construct roads and other works of improvement, in the several States; but whatever reason this might have offered for a careful and unobtrusive passage through other parts of their journey, yet, in North Carolina, these Government officers had nothing to fear—they were there, at least, on neutral ground. Not that the people of that State are indifferent to, or united in their opinions as to the powers of the General Government upon this and other subjects, but, influenced by that spirit of concession and compromise which gave existence to the constitution, they are prepared to yield much; yes, sir, they would pause long before they uttered even a gasconading threat of opposition to this or any similar act of authority on the part of the General Government; and though they may believe that, in many acts of legislation here, a due regard has not been paid to their interests, their complaints will be found to mingle with them no spirit of resistance—no sentiment of disunion. This is a subject that they have not been taught to think or talk about; and I, sir, am the very last man on earth that would attempt to teach them so fearful a lesson. But I return to the immediate question before the committee. The gentleman from Pennsylvania (Mr. HEMPHILL) asserts that the western route, the one embraced in the bill, has decided advantages over any other; but he has not told us to which of the routes his assertion is intended to apply; or, is he ignorant of the fact that two directions and two distinct surveys west of the mountains have been reported? I may

well suppose the gentleman from Pennsylvania to have fallen into this error, not only from what he has said, but from the fact that the gentleman from Tennessee (Mr. BLAIR) has triumphantly exhibited a chart of the route reported in 1826, and has referred to it as giving the only western direction indicated by the engineers; but, sir, I have procured from the Engineer Department, and now have before me, a map of a route which diverges from the first a few miles beyond Knoxville, Tennessee, crosses the Clinch River at Kingston, is then found winding its way through the Cumberland mountains, and toiling up Spencer's hill, and, after a fatiguing journey of many miles west of a direct line, it reaches Huntsville, in Alabama; and from thence it is seen to encounter the Muscle shoals of the Tennessee. Here it must cross the river; but by what means its passage is intended to be effected, the report does not inform us; it is thence, through many difficulties, conveyed to the Mississippi, at or near Baton Rouge; from thence it follows the banks of that river to New Orleans. This is emphatically the western route, the one particularly recommended by the gentleman from Virginia, (Mr. SMYTH,) yet, sir, notwithstanding the engineers report the distance of this line of road from Washington to New Orleans to be twelve hundred and eighty-two miles, and that of the middle route, through North Carolina, South Carolina, and Georgia, only eleven hundred and six miles, the gentleman from Tennessee (Mr. BLAIR) has roundly asserted that the western had the advantage in point of distance. [Mr. B. explained—he referred to that through East Tennessee.] I certainly should have understood the gentleman as he now explains himself, but he is still unsustained in his position; for the same report makes even his favorite direction longer than that of the middle survey; the difference is indeed inconsiderable; but it is decidedly in favor of my side of the mountains; but the other gentleman from Tennessee (Mr. ISAACS) will, no doubt, admit me to be correct, when I state that I understand him as joining the gentleman from Virginia, in recommending the road through West Tennessee. Taking this, therefore, as the western project, I will assume it as the standard of the comparison I intend to institute between the different lines surveyed. I have already shown that distance, a very important consideration, is decidedly in favor of the middle route; and I am equally confident that the facilities for constructing a good and durable road are also on my side of the question. It is true that the report exhibits little or no difference in this respect; but the gentleman from Tennessee (Mr. ISAACS) has himself furnished the proof that corrects the error of the engineers in this particular. He has shown the entire unfitness of his country for the making of even a tolerable way, according to the plan proposed by the bill; and it is so for the best of reasons—the great depth and richness

MARCH, 1880.]

*Pay of Members.*

[H. OF R.]

of the soil of that favorite and highly favored region render it unfit for the construction of a road composed of earth only. This is a partial inconvenience that we have all understood to apply to the gentleman's country; but which needs only to be stated, to convince us that its very existence implies an incalculably greater benefit in the abundant fertility of their lands.

Then, sir, whilst the bill proposes a road constructed of earth only, it is through the comparatively poor region of my State, and a large extent of the survey still farther south, that a soil will be found most happily adapted to its construction; it would not only be more cheaply made, but when done, it would be of a much more durable character.

But, in a commercial aspect, it is contended that the western direction possesses very decided advantages; yet if I rightly understand the report upon this subject, even that authority will be found in favor of the middle route, for all purposes of internal commerce. By casting the eye over the surveys through East and West Tennessee, it will be seen that they are carried for many miles in a direction parallel to the course of the Tennessee, and other navigable streams, and often upon their very banks, or at the distance of but a few miles. Instead, then, of this improvement being called for by the absence of water communication, the road, if established as proposed by the bill, can only be regarded as an auxiliary or substitute for the navigable streams everywhere to be met with in its neighborhood, and running in the same direction. This is not only true in the State of Tennessee, but is remarkably so through a portion of the country still farther south; for not only are smaller streams to be accommodated with this road, but for at least three hundred miles it is found traversing the very banks of the Mississippi. Then, is it not evident that much of the country through which it will pass is already provided with a much better means of transportation than would be afforded by the proposed improvement? Not so, sir, in the direction of the middle route; there we do not propose the absurdity of making a national road that cannot be needed; but, on the other hand, its construction in a direction different from that of the streams flowing to the Atlantic, must afford a very extended accommodation to the inhabitants of the intermediate sections of country, by facilitating the transportation of their produce, if not to the destined market, at least to some point from which they would have the advantage of water conveyance. A preference founded on this view of the situation of the country east of the mountains, is clearly intimated in the report of the engineers; and although it may not be found to obtain with equal force throughout the entire line of survey, yet its general existence affords a sufficient reason why it should weigh much with the committee in fixing the direction of this road. But there is in my part of North Carolina a description of trade that would be peculiarly benefited

by this measure. We have much intercourse with South Carolina and Georgia in one direction, and Virginia in the other. To these States the farmers of my district of country are much in the habit of wagoning their productions, either for the purpose of exchange or barter, or with the more desirable object of effecting a sale for cash. I will not say, sir, that this trade exhibits the numerous caravans of wagons that we are told are seen crowding along the western road; but I will say, it is far from being inconsiderable, and is much increasing, especially in the southern direction, and is of sufficient importance to claim our attention in the consideration of this part of the subject.

The military advantages of this western road have been heightened and embellished by frequent allusions to the city of New Orleans, as not only the scene of military operations, but as the theatre on which imperishable renown was obtained. Every idea of defence connected with this road seems irresistibly to terminate at this memorable point. My colleague (Mr. CARSON) was certainly very happy on this part of the subject; and although I could but regard some portion of his argument as underrating the importance of improvements in time of peace, tending to security in time of war, yet the reasons offered by him were quite sufficient to show the utter inutility of taking this road out of its natural course solely with a view to the defence of New Orleans; for, whatever possible necessity there may be, at some future day, to muster the sons of the West at this far-famed theatre of war, I can but believe that they will find their way thither more cheaply and expeditiously through other modes of conveyance than that which this military road would afford; and, sir, I have not heard it contended in argument, that any other point on the line of this western road was likely to present a field for military operations—no necessity is intimated of saving us from ourselves in the West; for, whatever may be thought of the South, all is peace and quiet in that quarter; there the spirit of insubordination is not thought to threaten disunion, or endanger our repose—the only possible cause of apprehension arises from their assertion of claim to the lands of the Government; and, for one, I hope, ere long, we shall remove this source of contention and apprehended danger, by making distribution of them among the several States of the Union.

TUESDAY, March 30.

*Pay of Members.*

The House resumed the consideration of the resolution offered by Mr. McDUFFIE, to curtail the sessions of Congress, by reducing the per diem after a certain period.

Mr. WAYNE rose, and said he was opposed to the resolution proposed by the honorable gentleman from South Carolina, (Mr. McDUFFIE,) and also to the amendment offered by the honorable member from Massachusetts, (Mr. EVERETT.)



The adoption of either would be productive of more harm than good—nor was there any thing in the past legislation of our country, or which had occurred at that session of Congress, to justify the changes suggested. I am satisfied (said Mr. W.) with the present arrangement for the sessions of Congress, and believe the House will come to the same conclusion, after mature reflection upon the subject.

The original resolution proposes that the compensation of the members of Congress shall be eight dollars a day for one hundred and twenty days, and, if a session shall be extended beyond that time, that the pay shall be two dollars per diem; and the amendment provides that the commencement of the sessions of Congress shall be on the first Monday in November, with a limitation of both to the 8d March.

The first is urged upon the grounds that there is a want of industry in this House, and that something is needed to coerce us to greater effort—that our inertness is caused by the mercenary consideration of daily pay—that it will save to the nation seventy-five thousand dollars; and that if the first session of each Congress shall be continued to its ordinary length, then eight dollars per day for one hundred and twenty days will reduce the daily compensation to seven dollars, which is said to be an ample allowance.

I shall examine each of these positions in the order they have been stated; and my reason for giving this formal investigation to a subject, apparently of no great importance, is the respectable source from which the resolution and the amendment came, and the disposition to prevent the mischief which either may do. If apology, however, were necessary, my justification would be found in the example of the honorable gentleman from Pennsylvania, (Mr. COULTER,) whose acute and talented exposition of the reasons against the resolution, and of the consequences which will result from its adoption, must have commanded the approbation of the House.

The first consideration urged in favor of the resolution by its mover—a want of industry—is the assertion of a fact, and its truth must be ascertained before it can be used as an argument.

I am told by those in whose experience I have confidence, and the examination of our statute book confirms the declaration—that if the legislation of this session is compared in kind and quantity with that of any preceding Congress, it will suffer no disparagement by the comparison. Between four and five hundred resolutions have been submitted, three hundred and ninety-nine bills have been matured by the committees and laid upon your table, one hundred and twenty-three of them have been finally disposed of in this House, forty-one of which have received the concurrence of the Senate, and passed into laws; seven from the Senate have been acted upon here, and fifty-two from the same branch of the legislature remain for

our consideration. Of the bills which have passed into laws, it should be remembered, there are several of national importance, and among them, what is unusual so early in the session, and which should have conciliated the kindness of the gentleman, (Mr. McDUFFIE,) is his own bill of appropriations for the ensuing political year. With this formidable array of business done, it is easier to make an accusation of indolence than to sustain it. No preceding Congress has done more so early in the session; and at the termination of this on the 15th of May, the time fixed for its adjournment by this House, in quantity at least, we may anticipate enough to entitle us to the commendation of our constituents, and from present appearances, too, without having the volume of our laws enlarged by making any extravagant and experimental expenditures for internal improvements which can never yield a revenue to our treasury, or by such laws as press upon the loins of national industry, to encourage manufactures. However, let me not be supposed to intend any injustice to the gentleman, (Mr. McDUFFIE,) as it is not owing to his want of ability or exertion that we have not been relieved from the latter; and as to the first, without thinking, with some of us in principle, between whom it must be admitted there are shades of difference, he has already manifested a strong desire to retain the operation of his own sentiments upon the power, strictly within the bounds of judicious and national appropriations; and I cannot refrain from expressing the hope that this session will pass without a difference between us as to what works or subscriptions shall be considered entitled to his cautionary opposition.

But the charge of a want of industry in this Congress has gone out to the world, under the sanction of the gentleman's name, and upon such authority it will be believed, unless it shall be repelled by a detailed examination of preceding Congresses—not very interesting, it is true, but which may command the attention of the House from its direct application to the subject. And one other reason urges me to be particular. Having come into this House under the political revolution which the people thought the condition of the country demanded, it is not to be supposed, composed as it is of a moiety of new members, three-fourths of whom were chosen to sustain the present administration, that such a charge, involving them in a moiety of its discredit, will be permitted to pass without a refutation, even when made by an old member of this House, though he be one of the firmest and ablest supporters of our common cause. Such a charge may raise the maker of it in public estimation, but it will throw his associates into disesteem if it be not denied and disproved, and might jeopard the administration itself at the ensuing election, unless it shall be shown that those who are here and its advocates are worthy of being continued. Our adversaries, sir, are sufficiently talented and numerous, without giving to them

MARCH, 1880.]

*Pay of Members.*

[H. OF R.]

additional strength by the voluntary condemnation of ourselves.

The examination of our statute book will show that every Congress, from the beginning of the Government until the expiration of the last, excepting the fourteenth, fifteenth, and seventeenth, occupied more time than will have been consumed in this, if the pressure of our engagements shall permit us to separate on the 17th of May, which every one thinks so probable, that no one event suggests an extension of its sitting after the 24th of that month. A reference to the forty-eighth chapter of the first volume of our laws, which gives the periods of commencement and adjournment of Congress from the year 1789 to the 8d March, 1815, will confirm the declaration just made, as regards thirteen Congresses, and the journals of this House will show it to be equally exact as regards the sixteenth, eighteenth, nineteenth, and twentieth. The exception of the fourteenth, fifteenth, and seventeenth—and to the fourteenth and fifteenth, the gentleman (Mr. McDUFFIE) alluded as examples of commendable industry, and of reproach to this—may be accounted for, that the country having passed from a state of war to peace, the occupation of both consisted in repealing the taxes which had been laid to meet the exigencies of the first. More than the half of their legislation was strictly private and local; that which was of a mixed character, relating to our public lands, was the resumption of what had been discontinued by the war, with which persons in and out of Congress were familiar. True it is, then was the inception of our present restrictive commercial code, by the passage of the act "to regulate duties upon imports and tonnage;" and the time was made equally memorable by the grant of the United States Bank charter. The first, however, was passed with much less discussion than has been had upon bills having the same object in view since; though the tendency of that, in the subsequent claims which have been based upon it, was foreseen and foretold by some, whose warnings were unheeded, by the honest wish of many to make our nation independent of foreign supplies, without looking into futurity for its cost; and by others, who overlooked consequences, in their eager desire to have the honor of its paternity. For the other, the bank charter, the public mind had been prepared by much previous discussion; by the existence of a former bank; by its plan having been matured in the recess of Congress; and because it was generally known that the then President's constitutional objections to the charter had been subdued by painful recollections of the necessities of his treasury, and the rapacious combinations, during the war, to depreciate Government securities, issued in our hour of hardest trial, to supply its deficiencies. In referring to the history of that time, one scandalously inclined might also say, the salary compensation law, an immediate operation having been given to it had its effect in causing an ear-

lier spring flight than had been usual, I, sir, however, make no such charge; and in explaining the causes which enabled the fourteenth and fifteenth Congresses to adjourn the first session of both earlier than had been done before, I disclaim any intention to depreciate their industry, or assail their purity. I turn back to them with respect; for it was not until then that my mind began to pursue political investigation, or to think of public measures, either as to their consequences, or the principles by which they were to be sustained; and, from the reasoning of some of the prominent men of that day, my politics received a radical tint, which, as much decried as it was afterwards, is now the badge of many who would not then wear it, and is very fast becoming the national color, fatal as it was made to some who first raised it as a banner. There was inscribed upon it, judicious impost for revenue—proper expenditures for necessary national establishments, but nothing for patronage, and a limitation of the action of the Government to the text of the constitution—the best and only security for the perpetuity of the Union. The other exception of the seventeenth Congress is to be accounted for, from a part of the business of its first session having been done in the last session of the sixteenth, which was begun in November, three weeks earlier than the ordinary time of meeting.

Such is the fact, in regard to the time occupied in legislation, since our Government was organized, which of itself relieves this Congress from the imputation of any protraction of its sitting; and it shall be presently shown, if it is to be appreciated by the business done, it will have no cause to shrink from any contrast with the past. Nay, if the mere performance of duty could at any time justify exultation, it might be indulged by us, and those who have for some years preceded us, without any self-complacency, that the time passed in legislation has not been extended, if it is recollected how long the sessions of Congress were continued after the Government had been fully organized; when the subjects of legislation have been constantly increasing with this House, consisting of a fourth less number than it now has, for thirty years of our history, with all the rapidly progressive fluctuations of a population from three to twelve millions, living in twenty-four separate sovereignties, instead of thirteen. Sir, our predecessors were not drones in legislation; their labor is their eulogium, and ours shall be as well thought of hereafter; for I cannot be mistaken in believing that there is a spirit in this Congress, revolting at the slanders of inexperience and want of ability uttered against this administration, and determined, if they shall be permitted to do so, to make the effort to give to it as distinguished an elevation in the future annals of our country, as that which is held by the administration of its father and first President.

But it is urged, in proof of the propriety of

limiting the first session of Congress to one hundred and twenty days, and as a reproach when it is extended beyond it, that the second session of three months is sufficient for all the purposes of legislation, and that as much is done in it as is accomplished in the first. The declaration was inconsiderate, for such is not the fact; and I ask the attention of gentlemen, while I resort to detail, to sustain the contradiction of both assertions. By adverting to our statute book, it will be found that the business done at the first sessions of Congress has been, with little variation, the same, and that the proportions of laws passed at the long and short sessions do not differ materially, though those of the latter are in number but two-thirds of the former.

In regard to inertness from mercenary motives, though such an imputation has been disclaimed by the honorable gentleman, (Mr. McDUFFIE,) and I do not believe in his observations he meant to make it; if it had not been disclaimed, it could have been met but in one way, and that would have been by saying, a charge so disreputable in mass, no one will venture to make particular in its application. But, sir, though it was not intended, it is implied by the terms of the resolution, for if it be not addressed to an existing corruption, it is meant to act upon our fears, which is not less disreputable. What is the resolution? The compensation shall be but one-fourth of what it is to be for one hundred and twenty days, and this reduction is the penalty for not having done in that time all that the exigencies of legislation may have required. If it be not in the nature of a penalty, one or the other of these consequences must ensue, either that the sum then to be allowed is always sufficient, or that the laborer deserves as much for his services after the time proposed by the resolution for the limitation of the session, as he received before it. It may be that there are persons here who would protract the session from sordid calculations, but we must presume they are in number too small to give decisive results to their wishes. But allow them to be numerous; how can they operate? The motive is too mean for avowal and concert, and a general indolence would be counteracted by the heads of committees, who control the business of this House, and no one of whom can be supposed to be of the number of the delinquents. Can there be among them any who, by mind, education, or character, are fitted to take an active part in our proceedings, and I trust I may say, without being suspected of spreading a general unction of flattery over ourselves, that a very large majority of such are here, to countervail the sordid selfishness of any of our associates. The insinuation includes more than is supposed by those who indulge in it, or who believe that its existence has any influence upon our proceedings. It is not that a small number are so mercenary, but either that a majority are so, or that a large portion of the majority are the auxiliaries of its influence. But, sir, neither this House

nor any part of it is liable to the charge; and I invoke the feelings of human nature in its vindication. Of whom is Congress composed? Of fathers and husbands used to the quietude and sweets of domestic life. When deprived of them for a few months, our hearts burn with a fondness to partake again of their enjoyment, which even avarice cannot control. The affections trample down every impediment in the way of their gratification; nor is their restlessness appeased until we are in possession of the objects of our love. The resolution has also been recommended to us upon the ground that it will lessen the expense of each Congress seventy-five thousand dollars. I think a more certain way of doing it has been shown, and I repeat, the only difference between the gentleman and myself is as to the best way of doing it. It is certainly worth considering; but I would also remark that all saving is not economy. An investment is often made by individuals and nations, which brings a moral and political return far beyond the value of the expenditure. And unnecessarily spent as this seems to have been, has it been productive of no good? Is the information spread abroad by our debates no credit to which Congress is entitled? Or is it seriously believed, as gentlemen have impatiently declared, that our great evil and cause of delay is the prevalence of debate? Sir, much of our legislation is private, strictly so—much local; both involving a knowledge of many particulars which we should have, and can only acquire by patient listening, to enable us to vote understandingly. We have two things to do: first, to convince ourselves that we are acting right, and, by telling our reasons, to convince our constituents that we have done so. And uninteresting as the greater number of speeches may be that are spoken here, they are instructive to the people. Cut off this source of information—close your doors against your reporters, or, what will be the same, pass every thing because your committees have recommended it, or reported a bill—reduce the reasons for all your measures to plain narrative, divested of all the charm, collision, and acuteness produced by debate, and half of the dignity of your Government will have been sacrificed, and our responsibility be lost sight of, in a general indifference to our proceedings. It is this indulgence of debate which tells the constituent of the real attitude and weight, here, of his representative; and it is the expectation, upon the part of the people, that it will be indulged and exhibited, which throws into the House so many possessing the talent. They know that our nation was spoken and written, as well as fought, into existence; and that, in many perilous periods of our history, the soldier's arm was nerved, and his heart warmed, with a hero's patriotism by the animation of the orator. But, sir, I dismiss the subject, because, as yet, we are the only complainers, and our constituents have not admonished us that they think it an evil.

MARCH, 1880.]

*Buffalo and New Orleans Road.*

[H. OF R.]

There is a remaining consideration upon which the adoption of this resolution has been urged, and which is entitled to a remark. It is, that the compensation of members will be reduced, even if the session shall be extended to its ordinary length, to still an ample allowance. I do not intend to dispute the sufficiency of the sum which will be received under such circumstances; but, without intending now to compromise myself to any course when the subject shall be directly presented to us, I cannot refrain from observing, if the reason given for it be correct, that it should be applied to the compensation of every officer in the Government, at least to all whose salaries have been increased in the last ten years, and which were not before absolutely insufficient. Such a work of reduction must be carried on in the gross; and when begun, though it may be an evidence of our sincerity and disinterestedness to become the first victims ourselves, it will not be esteemed abroad a proof of our sagacity, if we do not give to others a chance for the honors of such martyrdom. What, sir! money more valuable to us now, by fifty per cent., than it was twelve years since, when the question of compensation was settled between this House and the people by the repeal of the salary law and the enactment of the present allowance. If our purchases were confined to the actual sustenance of life, as the same sum now will buy half as much of food again as it would have done then, and the consumption of men not having increased, the proposition would have the aspect of correctness. But if it be tested by the endless expenses required and forced upon us by our social condition, by the comparative prices of labor then and now, by the reduction, in our country, of every agricultural product, and the enhancement, by our tariff, of almost all that we use, it will be found we have already paid full price for this nominal appreciation of money. If invested in stock, does it give a larger interest than it did then? In the purchase of property, though it may get double the quantity by metes and bounds, will it yield a greater revenue, or is the prospective increase in the value of property, in any part of our country, at a given time to come, more than will be its present price with legal interest? Money is in value what it was, though paper is not so plentiful. It is fortunate that paper does not circulate to the same extent that it did twelve years since, by which an artificial value had been given to all kinds of produce and property; but though, by its withdrawal, we have been restored to a wholesome condition, a painful reaction was produced, from which the people of this nation are not yet relieved, far outweighing to them any additional value which the circumstances may seem to have given to money. Sir, money is the same in value that it was then, and will always, in commercial countries dealing extensively with others, be liable to be affected by causes which cannot be foreseen, and the products which it

buys and itself reciprocally act upon each other. Things may be less in price, without money being more valuable to a community at large. Money is no more than an exchangeable medium for commerce, forced into use from its being a material more convenient than any other we have, as an index of value for other things; and the fluctuation in the quantity of produce which portions of it will buy at different times, is neither a certain evidence of general prosperity or declension—a proof that it is more or less valuable to the laborer, nor any criterion for altering the allowance of such as are in the public service.

*Buffalo and New Orleans Road.*

The House then went into Committee of the Whole on the state of the Union, Mr. HAYNES in the chair, and resumed the consideration of the bill making an appropriation for the construction of the road from Buffalo, in New York, to New Orleans, in Louisiana, via Washington city.

Mr. CRAWFORD said: The bill now before the committee was one of very grave character, involving most important considerations of expediency, apart from the constitutional difficulty with which some gentlemen, avowing no disposition to do so, had, involuntarily, he presumed, invested it. The power to construct roads and canals might once perhaps have admitted of great doubt but (said Mr. C.) I defer to the decision of more experienced and wiser men, whose opinions for the last five and twenty years, expressed in legislative acts, have fixed the construction of the constitution too firmly to be now shaken—upon a basis on which this body constantly acts. Not an appropriation bill passes, that does not, in some shape or other, recognize the principle. A few days ago we acted affirmatively on a bill providing for an expenditure incurred by the removal of obstructions from the channels of several rivers, and within five minutes have approved of one of similar character. Putting aside this question as *rem judicatam*, as one passed upon, and so considered on almost every side and not from the alarm which the gentleman from Virginia (Mr. P. P. BARBOUR) was so kindly desirous of quieting, let us proceed.

What is the duty of a Government, or, rather, for what is any Government instituted? To promote the happiness of those who establish it, by the proper exercise of all the powers confided. To develop the resources of a country, and of every part of it, by holding out the inducements which facilities of transportation furnish to increased industry in exploring them, the experience of the world has proved to be more effectual than any other policy which can be devised. A nation may flourish in every stage of improvement from adventitious causes—by the misfortunes of others, or some special good fortune that may attend her own condition. Such was our auspicious situation, from the formation of the present constitution until

eighteen hundred and sixteen or seventeen. We had just emerged from provincial inferiority—the heavy hand of an oppressive Government had been not long before removed, and we felt the buoyancy and elasticity of youth: the change of our internal and relative political position, and the adoption of our new frame of Government, placed before us an extended and delightful prospect, which was not only enlivened and enriched in all its most beautiful tints, but over which was thrown every charm that could gratify the beholder, by the situation of the Eastern world, whose food we supplied, and whose trade we carried. But, sir, except under these favorable external circumstances, no nation ever did prosper, no nation ever can prosper, nor even then to the extent of which she is capable, that is not supplied with the roads and means of transportation which a discreet and sober judgment shall assign to her condition. It is in vain that your manufacturers exercise their ingenuity and industry; that your farmers, as respectable and honored as any portion of your community, make you and themselves intrinsically richer, by drawing from the earth, annually, wealth which did not before exist, and that your merchants establish themselves as purchasers of their several commodities, if they cannot carry them to market, except at a sacrifice which blunts enterprise.

Not to open these avenues, is to bury the talent intrusted to us. For what has a most indulgent and beneficent Providence spread before us, with the most liberal hand, all the bounties of nature? Is it that we shall use them as they are furnished, or, by the exercise of the intelligence that belongs to us, bring them into the most advantageous and productive activity? To maintain the affirmative of the first branch of the proposition, might accord with the opinions of the individual who opposed the making of a canal, because God had placed a river near its contemplated route, and he thought it would be sinful to aid his works. Not so is my view. I would assist the industry and enterprise of the country, in its various branches. I would lend accommodation to its convenience, and I would, by every means in my power, place her in the best attitude for defence, if hostilities should arise between her and other powers. I would not have a splendid Government, any more than the honorable gentleman from Virginia, (Mr. P. P. BARBOUR,) but I am in great, very great error, if that which is intended for the benefit of the people—which is designed exclusively for the advancement of their interest, and which is expected, by those who advocate this bill, to contribute largely to it, can make a gorgeous Government. I had supposed there was more of utility than splendor in the scheme; that comfort, competence, and ease would be found in greater abundance in the country it traverses; but I never imagined, until the ingenious gentleman stated it, that the Government would be more imposing.

But, sir, if this be splendor I favor it. I wish to see the country, from Buffalo to New Orleans, gladdened by this channel of communication, which shall enrich the land that it passes through—diffusing pleasure and wealth, and inciting to the industrious production of that which can be advantageously disposed of. Even Virginia, in her four hundred miles that it covers, will yet rejoice, I trust, that this bill has passed—not on a magnificent scale, with triple rows of elms, in imitation of the French minister, but on the moderate plan proposed by a very respectable committee of this House, through its honorable chairman, my colleague and friend, (Mr. HEMPHILL,) on a plan destined, I hope, to be approved by the Congress of the United States.

In advocating this measure, I wish it distinctly understood that the conceded power should, in my judgment, be confided to great, leading national objects: that it should not be exerted frequently, or on ordinary occasions, but on those only which would seem to require a great common effort for a great common good. Such I regard the present project to be. Is it expedient? I think so. The seat of the General Government is the heart of the body politic. From it must flow to every part of the country, in peace or in war, the regulations, laws, orders, and instructions it was organized to furnish and give. By a speedy diffusion of intelligence and information among the people of what the Government does or does not do, of the course of policy it adopts or abandons, you can alone preserve attachment to it. That every facility should be afforded for that purpose, is of vital and engrossing interest. And here let me ask, sir, in the language of my friend and immediate colleague, (Mr. RAMSEY,) have you a single passage out of Washington provided by the General Government? By what means are you to place the citizens of this very extensive empire upon a footing of equality, so fully and effectually, as by the expeditious dissemination of information? Can those on its remote borders form so correct an opinion of the merits and demerits of their public agents, as those whose locality places them nearer, unless you transmit to them the materials of which alone opinion must be made up? I am acquainted with no arrangement by which those who administer the public affairs can be brought so immediately under the view and observation of their constituents, either for approbation or for censure, as by the rapid diffusion of useful knowledge. This Government depends essentially, both for the most beneficial results and for durability, upon the intelligence and virtue of those who have the happiness to live under it. Give them the first, and the last will be strengthened; and both will be, to the noble structure we have reared, a foundation and support that must secure its perpetuity.

To commence with the northern part of this road: What are its anticipated mail advantages? Very great. The travel from Washing-

MARCH, 1880.]

*Buffalo and New Orleans Road.*

[H. OF R.]

ton to Buffalo, by way of Baltimore, Philadelphia, and New York, is about six hundred and seventy miles. On this route the mail can be carried between the extremes, when steamboats are in operation on a part of it, in six days; at other times, seven days are occupied. Stage lines were established, some two or three years ago, from Harrisburg to the western part of New York, by which the distance on the shortest stage route was reduced to about three hundred and ninety miles, over which the mail is conveyed in seven days. If a road were made from this city to Buffalo, by the nearest practicable route, it could be transported between them in less than four days. (Postmaster General's letter of 28th December, 1827.) What an immense saving of time! Will gentlemen tell me that it is no advantage to have the mail carried in half the time? Is not despatch the life of your post office? Here have we been, during the session, receiving petitions from a very large number of our constituents, larger, probably, by many to one, than those who have expressed their views on any other subject, requesting us to stay the mail only for one day, and that the most holy one: and by our committee we turn a deaf ear to their entreaties, insisting that great inconvenience will result from the delay—that if we grant their request, it will be felt throughout all the mail ramifications of our extended domain. For the sake of the argument admit it. How great, then, must be the advantage we would have by gaining half the time; by the transmission of intelligence in four—in less than four—instead of seven days! Will it not pervade, sir, the most remote districts of our northern and northwestern borders? To enlarge upon this topic appears to me to be unnecessary.

Our attention is next drawn to the commercial considerations which bear upon this question. The bed of the road must be carried, for the first one hundred to one hundred and twenty miles north and northwest of this city, through a country fertile and beautiful as the heart of man could desire; a region under the highest cultivation, and studded with the homes of an industrious and happy population. It will afford them a channel of direct communication with the capital. They will have a choice of markets, at which they can dispose of the products of their farms, that embrace all the varieties proper to the climate. It will cross, at various points, the several turnpikes leading to Baltimore and Philadelphia, and will enable many who choose to direct their course towards those cities, to do so with increased ease. In its more western course, it must likewise strike two, at least, of the Pennsylvania canals, and will facilitate an approach to, or departure from, them. Where the country through which it passes is not eminently fertile, it abounds in coal and iron, which will probably make the resources of Pennsylvania, unfolded and opened as they soon will be, greater than those of any of her sister States.

VOL. X.—46

For the military purposes, what are its advantages? Many and commanding. As has been wisely said by my very much respected colleague, (Mr. HEMPHILL,) the strength of a country rests not so much in the number of its population, as in the facility with which masses of its defenders can be thrown together. This road will not only afford every advantage for sending the earliest instruction to your northern and northwestern frontiers, and enable you, if need be, to transport the munitions of war and provisions, at a small cost to your army, but it will meet, at every turn, some line of communication from an Atlantic point, which shall be either endangered, or which can furnish information of any enemy that may be on the seaboard. The roads and canals which irrigate and fertilize that whole section of country, do not run parallel with the proposed road, but will be crossed by it at as many centres as this famed city contains. If we had had such a road during the late war, we should have saved more money, several times told, than the entire improvement from Buffalo to New Orleans will cost, if it shall be authorized. So much for the northern end.

Are there sufficient reasons to justify the making of the road from Washington to New Orleans? It appears to me there are. It holds out to you great facilities and increased despatch in the conveyance of the mail. It was carried in December, 1827, (Postmaster General's letter,) between the two cities in nineteen days, over twelve hundred and fifty-nine miles, along the metropolitan route—certain improvements in bridges, and the removal of obstructions, it was thought, would enable the Government to transport it in seventeen days, and it was believed a good turnpike, on the shortest line, would put it in the power of the Postmaster General to carry it through in eleven days; add, if you please, three days for difference between the contemplated road and a turnpike, and you have a saving in time of at least three, perhaps five, days. In a commercial point of view, many advantages must result from it. It traverses a country abundant to overflowing in every thing that can contribute to the comfort and enjoyment of life. The surplus products can be carried on it to those streams which it strikes at right angles, and down which they can be cheaply floated to the seaboard, or some intermediate mart. The great Cumberland valley and many parts of the Southern country will yet be busy and happy in the establishment of manufactories, to and from which this road will afford facilities for carrying the raw material and the manufactured article. For war, it will enable you to convey your troops and their provisions, not along its whole distance, but, as the honorable gentleman from Tennessee (Mr. BLAIR) remarked, on particular portions of it, and on all parts of it at different times. Perhaps troops will never be marched from Buffalo to New Orleans, or the reverse, but they will be moved from intermediate points to either,

or to Washington. The proposed route is about equidistant from the seaboard and the Mississippi; they will be auxiliary to each other, or if gentlemen prefer it, I have no objection that the road be considered ancillary to the river.

Mr. STANDIFER hoped the committee would not think he was trespassing on its patience, whilst he attempted, in his own way, to give his views on the important subject before the committee. But, sir, (said Mr. S.,) you will readily account for the embarrassment under which I labor, when I inform you that I was raised to the plough, at a time, and under circumstances, which prevented my getting any but the most limited education. My embarrassment is increased also, from the unfortunate difference of opinion which prevails in the delegation from my own State, with all of whom my intercourse has been friendly. But, whatever may be the difficulties with which I have to meet, I am determined, when I see a subject under discussion which involves the best interests of my constituents, and the nation at large, to represent the views of that generous and enlightened people who sent me here, and with whom, when at home, every thing dear to me is to be found. I mean to give my full support to this bill, and wish to allow my colleagues and all others the same privilege of acting freely that I take myself. I know this is not the course of all the members of this House; but I hope I may be allowed to say that my two worthy colleagues, (BLAIR and ISAACKS,) who spoke on the same side of this question with me, and myself, live in the mountain region, where we breathe liberal air. We do not set ourselves up for little captains to lead others on; we aim at no such unenviable distinction. We are perfectly willing that they should think and act for themselves, and we will leave it to the proper tribunal to decide between us. Neither of us will hold up the constitution to shelter ourselves from responsibility, and save us from the people at the ballot boxes.

I will say for the worthy gentleman from Virginia, (Mr. BARROUX,) that he has, in opposing this bill, which is my favorite one, acted with his usual fairness and candor. He has argued upon the ground of expediency alone, and I give him credit for it: for who, that would be thought sincere, would oppose this bill on constitutional grounds, when it is pretty well understood here that two-thirds of this House are satisfied of the existence of the power of Congress to make internal improvements? I know that some of my colleagues will bear me out in saying, that, on my way to Congress in 1823, I expressed myself in favor of the system of internal improvements, and, after taking my seat, voted under the influence of that belief; and I tell my worthy colleague, (Mr. POLK,) that that opinion remains unchanged by any thing that I heard from him in the course of his remarks.

This road is one of the first importance to the Government in three points of view: mili-

tary purposes, mail transportation, and last, though not least, commercial.

Speaking of it as a military road, I must call into my aid plain common sense, as I am not possessed of much book information. My view of the United States in its warlike preparations is, that it may be compared to the encampment of an army in an enemy's country, when commanded by a skilful general. That encampment is in a hollow square, keeping in the centre a portion of his best troops, in order, if attacked on any side, to throw this reserved force to the place of attack. Now, the United States has frontiers around all the States except Kentucky and Tennessee: they are in the centre of this great encampment, and ready to be thrown to the defence of the line attacked. Will you, then, refuse to give them a road to go upon to fight, not for their own personal safety, but that of their country? They are safe if you leave them to defend themselves, for their frontier and seaboard neighbors must be cut down to reach them: but they do not wait for danger to themselves—they volunteer, and bare their bosoms to the bayonet of the enemy for their exposed neighbors, and surely it must be important to make them good roads.

The mouth of the Mississippi is very important, and may be said to be the key of the whole Western country. Suppose that a foreign foe should take possession of it, and lock up its mouth, it would strike at the interest of nine of our States and one Territory. Mobile is still more indefensible than New Orleans, and depends upon East Tennessee for succor. Georgia will have to look to her own frontier, and will not be able to assist. It is, therefore, all-important to make this road, which runs three-hundred miles through Tennessee, and crosses the Tombigbee, in Alabama, below the mouth of the Black Warrior River, where steamboats run, and troops and provisions could be carried on this road to that point, and then sent down to Mobile. Sir, the people of the lower country do not raise provisions to support an army—hardly for themselves; for, like all others, they raise that from which they can make most, and it so happens that that is cotton and sugar. East Tennessee, through which this road is to run, is the place from whence their supply must come, as well of provisions as men; and I have tilled the lands of that valley long enough to know, experimentally, that if you give us the channel upon which to send the provisions, we can raise them.

This road, if made, passes through the country which was the scene of suffering during the late war. Perhaps, from my participation in those times, I feel more on the subject than I otherwise would. I cannot, whatever others may do, forget the difficulties and troubles of that day, and much of it arose from the want of such a road as the bill now proposes to make. I saw, on the line of this road, your sick and diseased soldiers, who were fighting for your country, wading through mud and water, whilst



MARCH, 1830.]

*Buffalo and New Orleans Road.*

[H. OF R.]

the measles and other diseases were fastened upon them. On our return from the Horse-shoe to Fort Williams, we had to carry our sick and wounded, some on horseback, and others on biers, by their brother soldiers. From Fort Jackson to Fort Williams it fell to my lot to be one of the officers of the rear guard; our duty was to keep the men before us, and leave none behind. From hunger, sickness, and fatigue, they kept falling back, until they far exceeded the number of the guard; some had eat nothing for four or five days, and they literally gave up to die, and sought every opportunity to dodge the guard and hide behind logs and brush, and risk the savages in preference to the fatigue of travel, under the prospect of starvation. I am confident in the opinion that no man living, save the very distinguished general who had the command, could have kept in subjection men in their condition. He was kind and tender to them, and treated them as a parent would his children; he gave his own horses to the sick soldiers, and took to the mud and water with the rest; but those who were inclined to be disobedient he forced into obedience. Who, sir, were these soldiers that endured all this suffering? They were neither enlisted nor hired men; they were the respectable freemen of Tennessee, many from my own district, who volunteered, and left their wives and children as widows and orphans, to defend the liberties of the country. But you starved them in war for the want of a road to carry them provisions; you diseased them by subjecting them to trudge through mud, and wade waters, for the want of a road; and now your country's flag is floating in peace, and you are willing, if you reject this bill, to let them again endure the like afflictions. Let me tell you, this road is more needed than many of your other preparations for defence.

It has been my happy lot to live among the mountains boys, as they are sometimes called. I have been with them in the field of battle in one war, and I can assure you, if the servants of the people will do their duty, and give to us roads so that we can travel to the points of danger, you never will again see the smoke of an enemy's fire upon the walls of this capitol. The people to be benefited by this road are in a situation to ask little from the Government, but they ask you to prepare the means of defence before another war may overtake you, and they, for the want of them, be again exposed to suffer sickness and famine. The utility of this road for mail purposes does not seem very clear to some of its opponents. The gentleman from North Carolina (Mr. CARSON) says, that upon this road to Nashville we now have six mails a week, and on his but one, therefore there is no need for this road for mail purposes. If the gentleman means that going and returning should each be counted, then we have six mails to that place; but, counting in the same way, I could make twice a week upon his route. The growing importance of all that new and advancing country, and its increase of popula-

tion, renders it probable that the time is close at hand, when the necessity for a daily mail on that route will arise. The gentleman from Virginia (Mr. BARBOUR) admitted, as I thought all would, the importance of this road in that point of view. When the cost of mail transportation is now looked at upon that route, can it be possible that there is any one who would not agree to the benefits to flow from making this road as a mere post road, and the advantages to the citizens who live upon it? But I will now pass to the benefit which can be felt, and properly weighed, by the farmers of our country. I mean that of aiding trade and intercourse. Take a view of this road and the country through which it passes: It falls into the valley of Virginia, west of the mountains, and traverses that valley until it intersects the ridges at the head of the Roanoke, thence to the head of Holston, through one of the best grazing countries in the Union, and passing through the whole extent of East Tennessee. For several hundred miles on that way the lands are rich, and present the most inviting prospects to the farmer and grazier, but unfortunately must depend upon land transportation for the means of interchange of their products with other more favored quarters. I said that I was a farmer, yes, a practical farmer, and I know how to sympathize with that class. I know what it is to labor throughout the summer in the burning sun, and have on hand throughout the fall and winter the product of your labor, if not spoiling on your hand, lying uncalled for, for the want of outlets to market. The farmer is the class for whom your legislation should mainly provide; they till the earth and feed the country; yes, we who are now the great men of the nation, legislating in this splendid hall, were sent here by them, and they are now feeding us by the sweat of their brows. They have been oppressed and borne down in the country from which I come on account of the channel in which their money has heretofore been appropriated by this body. I do not understand gentlemen when they talk about the revenue being raised in the great cities or seaports; my experience teaches me that the consumer pays this revenue, and my constituents pay their proportion; and how has it gone since the establishment of the Government? Upon tide water. Has any thing gone to the quarter through which this road is asked to be made? No, not the first dollar.

My colleague (Mr. POLK) cautions us against this system of internal improvements, because it is unequal and unjust. I tell him that which has been pursued is the unequal and unjust system; and this is the only one that our people, who live off tide water, can ever expect to be benefited from. I tell my colleague that the farmers of Tennessee will inquire more strictly into the correctness of our votes, than our fine speeches; they will rise in their majesty, and put down those politicians who will not represent their interests truly; and whilst he is giv-



ing cautions, he must pardon me for taking the liberty of giving him mine, take care that he represents the class of which I have just spoken.

I know that most of the people in the section of country from whence I come, are aware of the importance to them of connecting, by canal or railroad, the waters of the Tennessee with the Coosa, and in that manner gain an important outlet for their produce, and, in my opinion, that would be of more local benefit than this road; but, sir, the interest of the country requires that both should be done—make good roads, open your rivers; then your farmers will be stimulated to industry; all men need something to stimulate them, even the members on this floor—I do not mean, to try for places on this floor, that is already sufficiently strong; I mean to do their duty when they get here. I confess that I have sometimes thought that some of the people's servants forgot that they had masters; indeed, I very much fear that the result of this vote will tend to confirm that belief. I have this measure much at heart. Sir, it comes home in its benefits to the poor and needy; the very day-laborer is to find a place to reap the reward of his industry. I am, therefore, the more importunate. I never could see the reason why improvements could be constitutionally made on tide water; and the moment you left it, the constitution was too narrow to cover such work. This seems to be the modern doctrine, and though it suits some learned and wise men, it will neither suit me nor the people I represent; and I think some other gentlemen of this House will find, also, that those who swing the maul and axe will not be so well pleased with speeches filled with constitutional law as common sense voting, bringing home to them benefits and blessings which they can feel and realize. I trust in God that they will rise, and force their servants so to read the constitution as to include the neglected parts of this Union, for which we now ask this reasonable measure.

I have not had much experience in legislation, but I have been here long enough to know that tide water has been the spoiled child of this Government. I see on your table, and on passage, bills to open mouths of rivers, build seawalls, improve harbors, and various other things, to which I hear no man object; but when we from the other side of the ridge ask for something to be done to benefit the Union at large, and our constituents in particular, then the constitution adopted for the whole United States is too narrow to reach us, and some of our folk join in saying, if we stretch it from tide water it will tear. Indeed, it does seem to me that some gentlemen think that constitution, commerce, and every thing stops with tide water. They might as well try to convince me that a goose, swimming in tide water, turns to a terrapin when it gets above, as that commerce ceases to be commerce when it is put into a boat or wagon. Sir, this may be sound argument with hair-splitting politicians, but it would be

laughed at by our common ploughboys. If the good people of Tennessee can be blinded by reasoning which tends to license the expenditure of their moneys for all the seacoast projects, and nothing for defensive means amongst them, I shall confess that my colleague (Mr. POLK) is representing their wishes, though I shall never believe it to be their interests.

I have but little knowledge of the constitutional law, but I can understand plain English, and the constitution reads thus: Congress shall have power to "regulate commerce with foreign nations, among the several States, and with the Indian tribes." This means commerce carried on between different States, just like commerce with foreign nations, and the same can be done for both, unless the modern notion shall prevail, that there is no commerce off the tide water to regulate.

On the plan which I have adopted, the neglected portions of our country would be improved, and life and spirit given to the husbandman. The farmer could find a ready market for the products of his industry, life and energy would take the place of indolence and sloth; the farmer would then whistle after his plough, and the benefits would be felt throughout society; the cheerful wife, with her prattling infants, the pride and ornament of our country, would join their husbands and fathers, and would pronounce a blessing upon the politicians who were instrumental in conferring this good.

I have heard the sufferings and sorrows of our revolutionary worthies pathetically described by gentlemen on this floor, with which I have been edified and charmed; but, sir, when I am about to get the information on that subject from the most impressive source, I will go to the actor himself. I have heard the tale of their sufferings from themselves; how they marked with their bloody feet the frozen earth, and endured all that could be imposed upon them to purchase for us this Government, which is certainly the best upon the earth. They enriched it for us with their own blood; and shall we, like drones, misimprove the means which have been put in our power to benefit ourselves and posterity? Shall we skim the surface of this delightful country, and render it barren and waste? No, we would be unworthy of being called the descendants of ancestors so brave and noble. Let us put forth our hands and improve it, and give to its high-minded inhabitants all the facilities in our power, by constructing for them roads and canals, and improving their rivers; then shall we merit the name of representatives of a free and enlightened people. Pursuing this system, you will bind together the North and the South, and prevent jealousy and distrust, which is now but too apparent. Then you would hear nothing said about States flying off from their sisters, and rebelling against the Union. All would be bound together in bonds of harmony and peace; and when our posterity came into our places,

MARCH, 1830.]

*Buffalo and New Orleans Road.*

[H. OF R.]

they would have the pleasing reflection that they too had cause for holding in affectionate remembrance those who had preserved, in health and vigor, their beloved country.

Mr. CROCKETT, of Tennessee, submitted an amendment, providing that the roads should run from the city of Washington, in a direct route, to Memphis, on the Mississippi River, in the western district of Tennessee.

In support of his amendment, Mr. C. said, he was truly sorry, under existing circumstances, to trouble the committee with any remarks upon the subject, especially as a considerable portion of time had already been consumed by the Representatives from his State, no less than four gentlemen from Tennessee having addressed the committee, (Messrs. BLAIR, ISAACS, POLK, and STANDIFER,) all of whom (said Mr. C.) are much better qualified to give light on this subject than myself.

When (he continued) I consider the few opportunities which I have had to obtain information on this important topic, I shrink at the idea of addressing so intelligent a body as this, upon matters relating to it. My lips would be sealed in silence, were I not fully convinced that there has been, in some instances, a partial and improper legislation resorted to during the present session. I was elected from the western district of Tennessee, after declaring myself a friend to this measure; and I came here quite hot for the road—yes, the fever was upon me; but I confess I am getting quite cool on the subject of expending money for the gratification of certain gentlemen who happen to have different views from those I entertain. Let us inquire where this money comes from. It will be found that even our poor citizens have to contribute towards the supply. I have not forgotten how I first found my way to this House; I pledged myself to the good people who sent me here, that I would oppose certain tariff measures, and strive to remove the duties upon salt, sugar, coffee, and other articles, which the poor, as well as the rich, are from necessity compelled to consume. The duties on these articles are felt to be oppressive by my fellow-citizens; and, as long as I can raise my voice, I will oppose the odious system which sanctions them.

Those who sustain the Government, and furnish the means, have, by the illiberality of their servants, been kept in ignorance of the true cause of some of their sufferings. These servants, after the people intrust them with their confidence, too often forget the interest of their employers, and are led away by some designing gentlemen, who, to gratify some wild notion, are almost willing to enslave the poorer class at least. I am one of those who are called self-taught men; by the kindness of my neighbors, and some exertion of my own, I have been raised from obscurity without an education. I am therefore compelled to address the committee in the language of a farmer, which, I hope, will be understood. I do not mean to oppose internal

improvements—my votes on that subject will show that I am an internal improvement man, though I cannot go, as the Kentuckian says, "the whole hog." I will only go as far as the situation of the country will admit, so far as not to oppress. I will not say that I will vote against the bill under all circumstances, yet, at this moment, I consider it a wild notion to carry the road to the extent contemplated, from Buffalo to this city, and from this to New Orleans. Adopt my amendment, and you will shorten the distance five hundred miles, which will save, in the outset, upwards of seven hundred and fifty thousand dollars to the country. Is not this worthy the consideration of the committee? Besides, it would, in a measure, be useless to open the road as contemplated by the bill. I recollect there was a road opened by the army, from the lower end of the Muscle shoals, on the Tennessee River, to Lake Pontchartrain, and thence to New Orleans, and now it is grown up, except about one hundred and twenty miles, so that it is impassable; this is according to information I have received from gentlemen who are acquainted with the road.

From East Tennessee to New Orleans it must be upwards of eight hundred miles; from that place to Memphis, I mean from where the road would pass, between two and three hundred. I am well acquainted with the local situation of East Tennessee, and do not doubt that it would be of great use to make a good road from Memphis to this city. The contemplated road is to commence at Buffalo, come to this city, and go thence to New Orleans. But suppose we should say it were best to begin at Memphis, and come to this place? Will this be opposed? Will the rule not work both ways? If not, it is a bad concern. I am astonished that certain of our eastern friends have become so kind to us. They are quite willing to aid in distributing a portion of the national funds among us of the West. This was not so once. And, if I am not deceived, their present kindness is merely a bait to cover the hook which is intended to haul in the western and southern people; and when we are hooked over the barb, we will have to yield. Their policy reminds me of a certain man in the State of Ohio, who, having caught a raccoon, placed it in a bag, and, as he was on his way home, he met a neighbor, who was anxious to know what he had in his bag. He was told to put his hand in and feel, and in doing so he was bit through the fingers; he then asked what it was, and was told that it was only a bite. I fear that our good eastern friends have a hook and a bite for us; and, if we are once fastened, it will close the concern. We may then despair of paying the national debt; we may bid farewell to all other internal improvements; and, finally, we may bid farewell to all hopes of ever reducing duties on any thing. This is honestly my opinion; and again I say, I cannot consent to "go the whole hog." But I will go as far as Memphis. There let this great road strike the Mississippi, where the

steamboats are passing every hour in the day and night; where you can board a steamboat, and, in seven or eight days, go to New Orleans and back; where there is no obstruction at any time of the year. I would thank any man to show this committee the use of a road which will run parallel with the Mississippi for five or six hundred miles. Will any man say that the road would be preferred to the river either for transportation or travelling? No, sir. Then, is not your project useless, and will it not prove an improper expenditure of the public funds to attempt to carry the road beyond Memphis?

New Orleans has local advantages which nothing can take from her; it cannot injure her to have the road terminate at Memphis; and if the road should so terminate, it would be on the direct route from this city to the province of Texas, which I hope will one day belong to the United States, and that at no great distance of time.

These considerations, I think, are entitled to the notice of the committee. If we must burden the people by a great expenditure, let us endeavor to do it with a view to the general good of the country. As to the defence of the country, every man must know that the valley of the Mississippi can produce a sufficient number of troops to meet any enemy who may have the audacity or vanity to attack our western frontiers or New Orleans—that noted battle ground, where, a few years since, we made the most powerful enemy on earth tremble; where the proud troops of England, headed by their haughty Lord Packenham, so soon became tired of our present Chief Magistrate and his brave little band. We are at present much stronger than during the last war; and if we desire to transport an army to New Orleans, or

any thing else, nature has furnished us with the best road in the world, the importance of which we have once experienced. Should it ever happen that your brave soldiers, who fought so gallantly at Bladensburg, should be called on to render us assistance, I should be in favor of their taking a water passage at Memphis; a ride on the water, and a pleasant nap or two, might recruit their strength and sustain their natural bravery. I do not anticipate that those heroes will ever be called on to protect us; if there is a call, it will be on the other side; and it is now to be regretted that you had not been aided here by a few Kentucky and Tennessee boys, in your brave exertions to prevent the disgraceful burning of the capitol.

In the district which I represent, there are eighteen counties, in the whole of which there is not a spot of ground twenty-five miles from a navigable stream; and, for my part, I would much rather see the public money expended in clearing out those rivers, than in opening roads. By the bill, fifteen hundred dollars per mile is to be expended. This, I fear, would be but an entering wedge. But we will suppose the road to be fifteen hundred miles in length; at this rate it would cost two millions two hundred and fifty thousand dollars. But I believe the distance to be farther than gentlemen have calculated, and the expense will be greater.

Mr. OHILTON gave his reasons against the measure, although friendly to the system of internal improvement.

The debate was continued by Messrs. COKE, CARSON, CRAIG, of Virginia, SPEIGHT, PETTUS, and BARRINGER; but, before a vote was taken on the final question,

The committee rose, and reported progress.

## INDEX TO VOL. X.

### A

*A. B. Plot, The*.—See *Index*, vol. 8, *Edwards, Ninian, Address of*.

*Accident*, a most extraordinary, 197.

ADAMS, JOHN QUINCY, Message at 2d session of 90th Congress, 900; *note*, 909; votes for, as President, in 1898, 894. See *Index*, vols. 2, 3, 4, 6, 8, 9.

ADAMS, —, Senator, 588; on the removal of the Indians, 588.

*Addresses of the Senate and House in answer to President's Messages*.—See *Index*, vols. 1, 2.

*Adjournment of Congress*.—In the House, a resolution relative to fixing the day of adjournment, considered, 119; various amendments moved, 119; House cannot get through all the business on the docket, 119; their duty to attend to the public business, 190; the chief object for which gentlemen are to be detained is the making of President, 190; the time for adjournment too soon for the amount of business, 190; further debate, 191; resolution to appoint a committee to confer, &c., carried, 131. See *Index*, vol. 7.

*Admirals in the Navy*.—See *Index*, vol. 2.

*Africans captured*.—See *Index*, vol. 9.

*African Slaves and Slavery*.—See *Index*, vols. 1, 2, and *Index*, vol. 6, *Slavery*.

*Agriculture, Committee on*.—See *Index*, vol. 8.

*Alabama, Land Grant to*.—In the House, a bill granting certain relinquished lands to, considered, 187; ordered to a third reading, 193.

*Alabama*, vote for President in 1898, 894. See *Index*, vols. 6, 8.

ALEXANDER, MARK, on the tariff bill, 106; Representative from Virginia, 576; on the pay of members, 697. See *Index*, vols. 6, 7, 8, 9.

*Algeria War*.—See *Index*, vol. 1.

*Allegiance, Foreign*.—See *Index*, vol. 1; also *Index*, vols. 2, 5, 6, *Expatriation*.

ALLEN, ROBERT, on the rules of order, 401; Representative from Virginia, 576. See *Index*, vols. 6, 7, 8, 9.

ALSTON, WILLIAM, Representative from North Carolina, 576; on postponing the election of Clerk, 578. See *Index*, vols. 2, 3, 4, 5, 8, 9.

*Amelia Island*.—See *Index*, vol. 6.

*Amendment of the Journal of the House*.—See *Index*, vol. 6.

*Amendment of the Constitution*.—See *Index*, vols. 1, 2, 3, 5, 7, 8, 9.

ANDERSON, JOHN, the case of, see *Index*, vol. 6, *Bridery*.

ANDERSON, JOHN, on the tariff bill, 64; on the Cumberland

road, 577; Representative from Maine, 576; on a drawback on rum, 676. See *Index*, vols. 8, 9.

ANGEL, WILLIAM G., Representative from New York, 576.

*Appointments, Executive*.—See *Index*, vol. 5.

*Appropriations*.—See *Index*, vols. 1, 2, 3, 5, 7, 8.

ARCHER, WILLIAM S., Representative from Virginia, 576; on a Committee on Education, 593; on the Southern Indians, 612. See *Index*, vols. 6, 7, 8, 9.

*Ardent Spirits in the Navy*.—In the House, resolutions relative to abolishing, &c., offered, 670; it should be left to the discretion of individuals, 670; have the effect of reducing the efficiency and impairing the courage of sailors, 670; no practical results will follow the adoption of the resolution, 671; ardent spirits never contribute to the health or permanent comfort of the sailor or soldier, 671; impolicy of endeavoring to correct it by a prohibitory law, which might raise the spirit of discontent, 671; it is our duty to make the effort, 671; amendment moved, extending the resolution to members of Congress, &c., 673; amendment lost, 673; resolutions agreed to, 673.

*Arkansas Western Boundary*.—See *Index*, vols. 7, 8.

*Arkansas Territory*.—See *Index*, vol. 6, *Territories*.

*Armory, Western*.—See *Index*, vol. 8.

ARMSTRONG, WILLIAM, Representative from Virginia, 576. See *Index*, vol. 8, 9.

*Army*.—In the Senate, a bill to fix and reduce the military establishment, considered, 415; the bill, 415; moved to expunge the preamble, 415; reason of the preamble, 415; be quoted as a precedent hereafter, 415; a preamble is an apology for legislation, 415; the old practice, 415; the reasons of this act should go with it, 416; the bill requires no key to unlock it, 416; if the bill pass without a preamble, we call upon the President to sign a bill stating that to be right which he has declared to be wrong, 416; amendment moved and passed, 416; bill laid on the table, 416. See *Index*, vols. 1, 2, 4, 5, 7.

*Army desertion, prevention of*.—See *Index*, vol. 8, and *Index*, vol. 9, *Desertion*.

ARNOLD, BUREDIX, Representative from New York, 576.

*Assault on the President's Secretary*.—In the House, report of committee, 179; resolutions relative to, considered, 198; is this case subject to be discussed at this session? 198; a small affair from first to last, 198; let the resolutions be printed, 194; object of the mover, 194; the majority and minority of the committee agreed on the facts, but differed only as to the principle involved, 195; reasons for printing, 195; bad practice to receive the reports of minorities, 195; motion to lay on the table lost,

- 195; House now asked to receive a third report, 195; paper ordered to be printed, 194.
- Attorney General, office of.**—In the Senate, the bill to reorganize the establishment of the Attorney General, and erect it into a separate department, considered, 502; objects of the bill, 502; it will relieve the State Department from those duties which have suggested the project of establishing a Home Department, 508; evils resulting from the present mode of collecting the revenue, and instituting suits against delinquents, 508; what the bill proposes, 508; objections, 508; under the same law different regulations had been adopted, 504.
- A very inadequate remedy for any existing evils in the law department of the Government, or in the manner of collecting the revenue, 529; internal concerns of the country must soon be transferred from the State to some other department, 530; amendments moved, 530; duties of the Attorney General, 530; in no country is the Law Department in such a wretched condition as in the United States, 531; should not superintend the concerns of the Patent Office and the publication of the laws, 531; if this bill intended to establish a Home Department, let it be called so, 531; existence of the evils doubtful, 533; no good result from the metamorphosis of the attorney into the head of a bureau, 533.
- B**
- Bahama Banks.**—*See Index*, vol. 2.
- BALLET, JOHN**, Representative from Massachusetts, 573. *See Index*, vols. 7, 8, 9.
- Baltimore and Ohio Railroad.**—In the Senate, a bill to authorize a subscription to, 570; proposed that the subscription should be drawn from the sales of other stocks invested in works of a similar character, 570; no alternative but the adoption of this measure, 570; the funds of the General Government, in works of internal improvement, ought to be a circulating fund, to be applied as circumstances might demand, 571; is it wise to begin at the point at which it is proposed to start this project? 571; not the period at which our stocks could be sold to advantage, 571; the system of internal improvements can be sustained only by a fair and equal distribution of the favor and assistance of the Government, 573; let the Secretary of the Treasury be instructed to sell at such periods and in such parcels as in his judgment are best, 573; no reason why this bill should not be selected as the foundation on which the system shall be commenced, 573; bill laid on the table, 573.
- Bank of the United States.**—*See Index*, vols. 1, 2, 4, 5, 6, 7, 9.
- Bank Notes in Payment of Duties.**—*See Index*, vol. 7.
- Bankrupt Act.**—*See Index*, vols. 3, 8, 7.
- Banks of Deposits.**—*See Index*, vol. 7.
- BARNES, NATHAN**, Representative from Connecticut, 573. *See Index*, vols. 7, 8, 9.
- BARNOUR, PHILIP P.**, relative to accounting officers, 79; on the adjournment, 119; on the case of Wilde, 124, 125; on contraventions of Russian Treaty, 142; on the case of William Morgan, 168; reports on the assault on the President's Secretary, 180; on the assault on the President's Secretary, 198; on the Cumberland road, 308; Representative from Virginia, 573. *See Index*, vols. 5, 6, 7, 8, 9.
- BARNOUR, JOHN B.**, Representative from Virginia, 573.
- BARNARD, SIR JOHN**, extract from the speech of, 280.
- BARNARD, ISAAC D.**, on the Cumberland road, 335; Senator from Pennsylvania, 404; on the marine service, 438; on donations to deaf and dumb institutions, 512. *See Index*, vol. 9.
- BARRY, JOHN**, on naval appropriations, 6; on visitors at West Point, 8; on extension of time for drawback, 261. *See Index*, vol. 9.
- BARNWELL, ROBERT W.**, Representative from South Carolina, 573.
- Barracks at New Orleans.**—*See Index*, vol. 9.
- BARRINGER, DANIEL L.**, on the amendment of the rules, 350; on reprinting public documents, 399; Representative from North Carolina, 573; on the decease of Gabriel Holmes, 532. *See Index*, vols. 4, 9.
- BARTLETT, ISHABOD**, on the case of Wilde, 124; on the amendment of the rules, 350. *See Index*, vols. 7, 9.
- BARTLEY, MORDECAI**, Representative from Ohio, 573. *See Index*, vol. 7, 8, 9.
- BARTON, DAVID**, on the lead mines of Missouri, 306; on land claims in Missouri, 324; on school lands in Mississippi, 339; Senator from Missouri, 404; on pre-emption rights, 417; on Indian agencies, 452; on the Attorney-General, 529; on the removal of the Indians, 545. *See Index*, vols. 7, 8, 9.
- BASSETT, BURWELL**, on visitors at West Point, 13. *See Index*, vols. 3, 4, 5, 6, 7, 8, 9.
- BATES, EDWARD**, on emigration of Indians, 15; on the tariff bill, 95; on the occupation of the Oregon River, 275, 292, 304; on the territory of Huron, 336; on retrenchment, 367; Representative from Massachusetts, 573; on Indian affairs, 667. *See Index*, vol. 9.
- Bathurs at New Orleans.**—*See Index*, vol. 4; *do. at St. Louis*, *see Index*, vol. 6.
- BAYLOR, R. E. B.**, Representative from Alabama, 577.
- Beaumarsh, claim of.** *See Index*, vols. 3, 5, 6, 7, 8.
- BENCHER, PHILEMON**, on the Ohio canal, 192. *See Index*, vols. 6, 7, 8, 9.
- BENKMAN, THOMAS**, Representative from New York, 573.
- BELL, JOHN**, on land claims in Tennessee, 121; on *do.*, 299; on the Cumberland road, 339; Representative from Tennessee, 573; on Southern Indians, 609; on revolutionary pensions, 634. *See Index*, vol. 9.
- BELL, SAMUEL**, Senator from New Hampshire, 404; on pre-emption rights, 416; on pay of pursers in the Navy, 517. *See Index*, vols. 7, 8, 9.
- BENTON, THOMAS H.**, on the lead mines of Missouri, 307; on the commerce of the West, 309; on the drawback on sugar, 310, 311, 313; on the sinking fund, 315-323; on the distribution of the revenue, 329; on the Cumberland road, 324; on land claims in Missouri, 324; on the claim of Malson Bonge, 336; on school lands in Mississippi, 339; on instructions to Panama Ministers, 351; Senator from Missouri, 404; on interest due to certain States, 414; on a military peace establishment, 415; on Foote's resolution on public lands, 449; on Indian agencies, 458; on the abolition of duties, taxes, &c., 463; on the mounted infantry bill, 497; on pay of persons in the Navy, 518; on the Massachusetts claim, 536; on the revolutionary officers, 530; on reducing the duties on tea and coffee, 561. *See Index*, vols. 7, 8, 9.
- BERRIEN, JOHN M.**, on the protest of Georgia, 221; on distribution of the revenue, 221; on the judiciary, 238; on instructions to Panama Ministers, 253. *See Index*, vol. 2.
- BIBB, GEORGE M.**, Senator from Kentucky, 404.
- BIDDLE, JOHN**, Delegate from Michigan, 577.
- Bills, Money.**—*See Index*, vol. 1.
- BLAIR, JAMES**, Representative from South Carolina, 573; on distribution of the public lands, 603; on West Point Academy, 643, 644.
- BLAIR, JOHN**, on land claims in Tennessee, 331; Representative from Tennessee, 573; on a Western armory, 535; on the Buffalo and New Orleans road, 691. *See Index*, vols. 7, 8, 9.
- BLAKE, THOMAS, H.**, on the improvement of the Wabash River, 80; on the Ohio Canal, 191. *See Index*, vol. 2.
- Blank ballots, shall they be counted?**—*See Index*, vol. 4.

*Blue Lights, as Signals to the Enemy.*—See *Index*, vol. 5.  
**BOCKER, ABRAHAM**, Representative from New York, 576.  
**BOOK, RATLIFF**, Representative from Indiana, 577.  
**BORST, PETER L.**, Representative from New York, 576.  
**BOULDING, J. T.**, Representative from Virginia, 576.  
*Boundary Lines.*—In the House, a bill relative to the northern boundary of Ohio, Indiana, and Illinois, considered, 185; statement of the case, 185; its importance, 184.  
*Bounty for Fishing Vessels.*—See *Index*, vol. 5, *Duties, &c.*  
**BRODEHEAD, JOHN**, Representative from New Hampshire, 576.  
**BRANCH, JOHN**, on the lead mines of Missouri, 907, 908; on the Cumberland road, 238; on the Louisville and Portland Canal, 237; on school lands in Mississippi, 233, 239. See *Index*, vols. 7, 8, 9.  
*Brandywine Frigate, sitting out of, 568.*  
*Brazil, affairs with.*—In the House, a resolution relative to, considered, 125; information asked relative to measures which have been adopted to obtain a redress of wrongs, 125; unusual to call for information at so early a stage of a negotiation, unless circumstances existed to awaken a suspicion of neglect, 125; the correspondence does not meet or satisfy any of the inquiries now proposed to be put to the Executive, nor does it give the information without eliciting which Congress could not justly adjourn, 126; statement of facts, 126; the treatment afforded to our Chargé was such as to induce him to take a very extraordinary course, 127; charge upon the Committee of Foreign Affairs, 127; the expediency of moving the resolution at this time, 127; passage of the President's Message at the last session, 128; procedure of the late Chargé, 128; further debate, 124, 125.  
*Breach of Privilege.*—See *Index*, vol. 2, 4.  
*Breakwater on the Delaware.*—See *Index*, vol. 3.  
**BRENT, WILLIAM L.**, on the drawback on refined sugar, 370; on the Ponchartrain Canal, 385; on the duration of the rules, 401. See *Index*, vol. 9.  
*Breest Bank.*—See *Index*, vol. 2.  
*Bribery.*—See *Index*, vol. 6.  
*British Aggressions on Commerce.*—See *Index*, vol. 3.  
*British Colonial Trade.*—See *Index*, vol. 9.  
*British Intrigues.*—See *Index*, vol. 4.  
*British Minister, Conduct of.*—See *Index*, vol. 4.  
*British West India Trade.*—See *Index*, vol. 6.  
**BROWN, ELIAS**, on land claims in Tennessee, 126; Representative from Maryland, 576.  
**BROWN, MAJOR-GENERAL.**—In the House, resolutions on the decease of, 54; a bill for the relief of the widow of, considered, 78; statement of his affairs, and cause of his death, 78; is it innovating too much on the practice of this House to grant the means of support to the family? 78; examination of the laws of Congress, 78; the House cannot consistently pass this bill, 78; the custom to pay gratuities and pensions to the widows and orphans of soldiers, 78; case of Col. Harding, 78; the claim is stronger for being unaccompanied by a memorial from the widow, 79; the passage of the bill a matter of duty, 79; the House no right to do acts of partial legislation, 79; we have no testimony that he sacrificed a dollar in the public service, 80; a precedent in the law giving five years' pension to the widows of those who fell in war, 80; when our patriotic citizens have yielded their lives are we to say we have given them a sufficient reward in the glory which they have achieved? 80; a few facts, 80; it seems to be supposed that we have no power to legislate for particular cases, although we have the power to legislate generally, 81; he left a family in want, 81; the pension law not analogous in principle, 81; if this bill pass, those who die in civil offices in a state of poverty, will be entitled to the same consideration for their families, 81; what are we called to do? 82; have we

power to pass this bill? 82; it is said that glory is the soldier's pay, 82; bill passed, 83. See *Index*, vol. 9.  
**BRYAN, JOHN H.**, on the tariff bill, 83; on Indian appropriations, 140. See *Index*, vols. 8, 9.  
**BUCHANAN, JAMES**, on militia courts martial, 4; on the case of Meade, 70; on the tariff bill, 74, 92; on the naturalization laws, 139; on the case of William Morgan, 170; on the office of Major-General, 173, 174; on the extension of time for drawback, 261; on the occupation of the Oregon River, 274; on the Cumberland Road, 351; on the impeachment of Judge Peck, 546; Representative from Pennsylvania, 576; on postponing the election of Clerk, 578; on the annual Treasury report, 580; on distribution of the public lands, 595; on the judiciary, 625; on diplomatic expenses, 650; on Indian affairs, 666, 667. See *Index*, vols. 7, 8, 9.  
**BUCKNER, RICHARD A.**, on the Cumberland road, 351. See *Index*, vols. 7, 8, 9.  
*Buffalo and New Orleans Road.*—In the House, a bill to establish a national road from Buffalo to New Orleans, through Washington, considered, 699; it leads from two frontiers, 699; badness of the road during the last war, 699; character of the population of the country through which it passes, 699; will open lucrative communication between interesting sections of the country, 699; advantages of a road to New Orleans, 691; the routes surveyed, 691; reasons for preferring the western route, 691; reasons for embracing the two roads in the same bill, 692; preference of the western route, 692; is this road on the western route necessary for the purposes of this country for commercial, mail, and military objects, 693; character of the country, 693; utility of the road for mail purposes, 694; use of this road for the military operations of the Government, 694; this road opens to the southern part of Alabama the most speedy, natural, and efficient means of defence, 695; your troops encountered the horrors of famine on the margin of this road, 695.  
 Passage of the bill urged on four general considerations, 699; the constitutional powers of Congress have been assumed, 699; inexpediency of the measure, 699; not one of the four considerations urged requires that this road should be built, 700; what kind of road is proposed by this bill? 700; the superior improvement of railroads, 700; extracts from the report of engineers, 700; next in order are political considerations, 701; a crisis in our Government now perhaps at hand, 701; military considerations, 701; how long would it take troops to get to New Orleans by this road? 702; folly to make it for military purposes, 702; the transportation of the mail, 702; extract from the Postmaster General's report, 702; steam navigation will supersede roads, 702; the relative merits of the different routes, 702; has Congress a right to re-distribute the surplus money in the Treasury beyond what may be necessary to defray the ordinary expenses of Government? 704; the policy of a nation in regard to its funds is very different in some respects from that of an individual, 704; further debate, 703, 706, 707, 708.  
 The different routes proposed, 713; comparison between the different lines surveyed, 714; it is contended that in a commercial aspect the western section contains very great advantages, 715; the military advantages of the western road, 715; this bill is one of grave character, 719; for what is Government instituted, 719; not to open these avenues is to bury the talent intrusted to us, 720; the conceded power should be confided to great leading national objects, 720; what are the anticipated mail advantages? 720; the commercial considerations which bear on this question, 721; are there sufficient reasons to justify the making of this road from here to

- New Orleans ? 731; the road is one of first importance to the Government in three points of view, 732; the mouth of the Mississippi is the key of the whole western country, 732; it passes through a country which was the scene of suffering during the last war, 732; the people to be benefited by this road are in a situation to ask but little from this Government, but to propose the means of defence, 732; view of the country through which it passes, 732; importance of connecting the waters of the Tennessee with the Coosa, 734; tidewater has been the spoiled child of this Government, 734; further remarks, 735, 736.
- BURGESS, TRISTRAM, on militia courts-martial, 8; on visitors at West Point, 10; on the tariff bill, 90; on relief to railroads, 189; Representative from Rhode Island, 576; on compensation of members, 569; on distribution of public lands, 618; on Indian affairs, 666. *See Index*, vols. 8, 9.
- BURNET, JACOB, Senator from Ohio, 404.
- Burning of the Library of Congress.*—*See Index*, vol. 5.
- BUTMAN, SAMUEL, Representative from Maine, 576. *See Index*, vol. 2.

## C

- CANOH, WILLIAM, Representative from Vermont, 576.
- CALHOUN, JOHN C., votes for as Vice President in 1828, 394.
- CAMERLUNG, C. C., on the Chesapeake and Ohio Canal, 159; on retrenchment, 196; on the extension of time for drawback, 258; on the drawback on refined sugar, 262; on the occupation of the Columbia River, 300, 306; Representative from New York, 576; on Southern Indians, 607; on Indian affairs, 663. *See Index*, vol. 8.
- CAMPBELL, JOHN, Representative from South Carolina, 576.
- Canadian Refugees.*—*See Index*, vols. 2, 5.
- Canal around Muscle Shoals.*—*See Index*, vol. 9.
- Canal in Illinois.*—*See Index*, vol. 9.
- CARROLL, CHARLES, letter to, from the Speaker, 198.
- Caracacas, Relief of.*—*See Index*, vol. 4.
- CARSON, SAMUEL P., on the late General Brown, 81; on the tariff bill, 88; on Indian appropriations, 186, 187; on Indians in North Carolina, 143-146; on land claims in Tennessee, 317; Representative from North Carolina, 576; on a western armory, 580; on compensation of members, 591; on revolutionary pensions, 687; on the Buffalo and New Orleans road, 699. *See Index*, vols. 8, 9.
- Caucus, Congressional.*—*See Index*, vol. 5, and *Index*, vol. 7.
- Amendments to the Constitution.*
- CHAMBERS, EZEKIEL F., on Sabbath malls, 283; on instructions to Panama Ministers, 258, 254; Senator from Maryland, 404; on the Patent Office, 543; on the Baltimore and Ohio Road, 571. *See Index*, vols. 8, 9.
- CHANDLER, THOMAS, on the lead mines of Missouri, 308; on Sabbath malls, 282; on revolutionary pensions, 248; Representative from New Hampshire, 576.
- Chargés des Affaires, Appointment of.*—*See Index*, vol. 9.
- Charitable Objects.*—*See Index*, vol. 1.
- CHASE, DUDLEY, Senator from Vermont, 404. *See Index*, vols. 8, 9.
- CHASE, JUDGE, *Official Conduct and Trial of.*—*See Index*, vol. 8.
- Chesapeake Frigate, Attack on.*—*See Index*, vol. 8.
- Chesapeake and Delaware Canal.*—In the Senate, a bill to authorize a subscription to the Chesapeake and Delaware Canal, considered, 246; a motion to recommit and to amend, so as to include a subscription to the Dismal Swamp Canal stock, 246; this motion very proper, without implying a design to kill the bill, 247; amendment lost, and bill ordered to be engrossed, 247.
- Chesapeake & Ohio Canal.*—In the House, a bill to authorize a subscription to the stock of, debated, 154; objects of the bill of 1824, 154; if the friends of internal improvements do not wish to see that system utterly broken down, they must consent to have specific appropriations made for specific surveys, 155; sentiments of Jefferson, 155; necessity of making appropriations for these surveys specific, 155; dangerous to trust too much executive discretion in the expenditure of money, 155; the growing corps of engineers, 155; sixty-nine objects reported at the last session as having been examined since 1824, 156; roads surveyed, 156; is it not time for Congress to say to the war-department, finish some of the routes you have commenced surveying before you ask more money for new ones? 156; contemplated surveys, 156; the canal to Lake Erie, 157; the canal around the falls of the Ohio, 157; queries relative to the cost, time of completion, &c., of this canal, 157; replies, 158; railroads, 158; amendment postponing payment till the private subscriptions were paid up, moved, 158; it will practically destroy the bill, 158; amendment modified to a proportional payment, 159; further debate, 159; amendment carried, 160; bill ordered to be engrossed, 161.
- Question on the passage of the bill, 161; necessity of extending the Ohio & Chesapeake Canal to the lakes, 161; harbors on the lakes, 161; expediency of this government becoming a joint undertaker with the corporations of this district, 162; the policy pursued by the government of late years, 162; advantages secured by the revolution were very differently estimated by different portions of the community, 162; the proposed canal too visionary in its conception, too expensive in its execution, and too profitless in its enjoyment, to have been undertaken by the government, 163; will a reasonable profit be enjoyed by the people from what the government should lay out? 163; objections examined, 164; an improvement carrying with it more of a national character than any that can be made in these United States, 165; bill passed, 165. *See Index*, vols. 8, 9.
- CHILDS, TIMOTHY, Representative from New York, 576.
- CHILTON, THOMAS, Representative from Kentucky, 576; on amendment to bill on mileage of members, 609; on ardent spirits in the navy, 671.
- Choctaw Lands, Encroachments on.*—*See Index*, vol. 2.
- CLAIBORNE, NATHANIEL H., on the tariff bill, 59; Representative from Virginia, 576; on relief to widows of the Hornet's crew, 659.
- CLARK, JOHN C., on relief to the family of General Brown, 99; on the Ohio canal grant, 189; on the assault on the President's Secretary, 193, 194. *See Index*, vol. 2.
- CLARK, JAMES, Representative from Kentucky, 576. *See Index*, vols. 8, 9.
- CLARK, MATTHEW ST. CLAIR, chosen clerk, 578.
- CLAY, C. C., on distribution of the public lands, 608; Representative from Alabama, 577.
- CLAYTON, JOHN M., Senator from Delaware, 404; on Foot's resolution on the public lands, 486.
- Clerk of the House.*—In the House, a motion to postpone the election of Clerk, 578; when does the office of Clerk expire? 578; debate, 578; motion to proceed to the election carried, 578.
- Coast Survey.*—*See Index*, vols. 3, 2.
- Cod Fisheries.*—*See Index*, vols. 1, 2, and *Index*, vol. 5.
- Duties on Imports.*
- Coin and Mint.*—*See Index*, vols. 6, 7.
- COKE, RICHARD, JR., Representative from Virginia, 576.
- COLEMAN, N. D., Representative from Kentucky, 576.
- Collection Districts, Western.*—*See Index*, vol. 8.
- Colonization Society.*—*See Index*, vol. 9.
- Columbia River, Occupation of.*—In the House, a bill to authorize the occupation of, considered, 573; the best way to settle a new country is to leave it to the enter-

prise of private individuals, merely extending to them the arm of national protection, 373; the amount of trade there, 373; importance of such a station in case of war with Great Britain, 374; estimates of the navy department, 374; three thousand persons at the least ready to embark in this enterprise, 374; the language should be studied with great care, lest the nation should compromise its rights, 374; the bill attempts to reconcile two incompatible schemes, 374; it grants to settlers nothing more than might be reasonably asked, 374; the amendment goes to sanction foreign colonization, 375; it will allure the wild and desperate portion of the community, 375; what was to be done after these settlers had obtained possession of the land and erected forts? 375; suppose the bill passes, and thereby gives a social existence to that country, 375; insurmountable difficulties that attend the navigation of the river, 376; the very names described the place, 376; facts relative to the fertility of the country, 376; would a brotherhood of affection remain between that distant family and the States that remain united? 377; the character of the country, 377; accounts of Lewis and Clarke, 378; a peculiar kind of men necessary to fortify the mouth of Columbia river, 378; the settlement would be a foreign colony, 378; the profit to be derived from these barren regions, 378.

Existing treaties between the United States and Great Britain, 379; the twelve months' notice has not been given for annulling them, 379; can we take exclusive possession until this notice has been given? 379; bearing of the proposed measure on our relations with Great Britain, 380; the right to the country is ours, 380; a portion of this region a perfect garden, 380; does the jurisdiction belong to us? 380; main points of the bill, 380; that relating to jurisdiction a delicate one, 381; something should be done to keep peace with the British settlements and to protect our hunters and trappers, 381; ought we to forbid our citizens from going into this country while British subjects have free range? 381; the bill more conciliatory if 49° is made the northern boundary, 381; the opinion of this Congress ought to be heard, 382; our country is not oppressed by a dense population, 382; we may wonder what can induce a settler to seek this inhospitable region, 382; it is said we ought to take possession of the territory or some other power certainly will, 382; what power is there which is now attempting to hold the country north of the Columbia? 383; who has forgotten the expedition once projected to the Yellow Stone River? 383.

The substantial question is, whether any such change has occurred in the relations of this country to any other portions of the world, as to require us to assume a new attitude? 383; Columbia River is a stream of impracticable navigation, 384; the right of the United States to these possessions is perfect, 384; facts and arguments in favor of the bill, 384; is it expedient now to pass the bill? 385; the forebodings which were opposed to the acquisition of Louisiana have been happily answered by experience, 385; this assumes the territory from 43° to 54° 40', 385; would not convert into a territory a country in dispute, 385; object is to afford protection to our citizens residing there, 386; before the late war the Americans nearly monopolized the trade of Oregon, 386.

Motion to commit the bill to the Committee on Territories, with instructions, 387; by convention the country is free and open to our citizens, and to subjects of Great Britain, 388; it does not say it shall be open to the action of both Governments, 388; may you leave your citizens unprotected and ungoverned? 388; the bill should be so modified as not to conflict with the terms of our convention, 388; it is objected, that is granting

certain companies monopolies, 389; the provisions of the bill will not violate our convention with Great Britain, 389; the country should be occupied before it is explored, 389; the amendment proposes to authorize a private company to purchase of the Indians forty miles square, on which to erect a fort, 390; save those inhabitants of the wilderness from annihilation, 390; amendment proposed, 390; third section examined, 391; fourth section examined, 391; objections to the bill examined, 391; amount of the trade in furs and peltry, 391; the persons who negotiated the convention with Great Britain were regardless of the best interests of the nation, 392; duty paid in England on foreign furs alone, 392; advantages of an exploration, 392; the coast is an improper location for troops, if the object is the protection of the fur trade, 393; General Clark's account of Oregon, 393; it is thought that nothing is wanting but a little aid from the Government, 393; the whale fishing is, it seems, to be made tributary to the commercial importance of the intended territory, 394; the transportation of troops at the mouth of the Columbia is spoken of as if it were an affair of daily occurrence, 394; the provisions of this bill are not adapted to the end in view, 395; a word on extending civil jurisdiction over the country, 395.

Question on the amendment authorizing an exploration of the country, 390; something should be done at once, 390; a military post best designed to secure the object in view, 390; establishment of Astoria, 391; act of surrender and acknowledgment, 391; the commercial treaty between the United States and Great Britain, 391; we have been actually dispossessed of the country west of the Rocky Mountains, 392; unfortunate if an impression should go forth from this debate, that this territory was of little consideration, 392; the harbor at the mouth of the Columbia one of the most important considerations in regard to this region, 392; nature of the harbor, 393; accessibility, 393; character of the soil of that region, 393; descriptions, 394; Indian murders, 394; the cause, 394; statements of individuals, 395; we are tenants in common, so far as present possession is concerned, 395; how a military post at the mouth of the river will protect traders, hundreds of miles in the interior, 396.

Amendment moved, 311; now decided that if any thing is done, it shall be more than sending a party to explore the territory, 311; some decisive act should be done on our part, indicating our determination not to surrender one particle of our claim, 312; more desirable to see the country remain a hunting than an agricultural region, 312; history of our western settlements, 312; objection to military posts derived from the third article of the convention, 312; the amendment would be partial, and ineffectual for the attainment of its object, 312; bill with the amendments passed, 314. *See Index*, vols. 7, 8.

*Commerce of the United States.*—*See Index*, vol. 1, 8.

*Commerce of the West.*—In the Senate, the bill allowing duties on foreign merchandises imported into Louisville, Pittsburg, &c., to be secured and paid at those places, considered, 309; the public is secured, and the convenience of the merchants promoted by this bill, 309; the citizens of Pittsburg become indifferent on the subject, 309; provisions of the bill, 309; object to give facilities to western commerce, 309; hardships under the present mode, 309; bill ordered to the third reading, 309.

*Compensation of President and Vice President.*—*See Index*, vol. 1, 2.

*Compensation of Members.*—*See Index*, vols. 5 and 10, *Pay of Members*.

CONROY, LAWRENCE, on the tariff bill, 90, 91; Representative



from New Jersey, 576; on ardent spirits in the Navy, 670. *See Index*, vols. 4, 5, 7, 8, 9.

*Connecticut*, vote for President in 1828, 394. *See Index*, vols. 1, 2, 3, 4, 5, 6, 7, 8.

CONNER, H. W., Representative from North Carolina, 576.

*Contested Election*.—*See Index*, vols. 1, 2, 5, 7.

*Contingent Expenses*.—*See Index*, vols. 2, 3.

*Contracts, Government*.—*See Index*, vol. 8.

*Controversies between States*.—*See Index*, vol. 5.

*Convoy System*.—*See Index*, vol. 4.

COOPER, RICHARD M., Representative from New Jersey, 576.

*Cordage, Drawback on*.—*See Index*, vol. 7.

*Costs of Suit by Patentees*.—*See Index*, vol. 7.

COULTER, RICHARD, on affairs with Brazil, 125-135; on the assault on the President's Secretary, 194; Representative from Pennsylvania, 576; on compensation of members, 590; on the pay of members, 709. *See Index*, vol. 9.

*Counting the Electoral Vote*.—In the House, a resolution relative to, 384; counting of, 394.

COWLES, HENRY B., Representative from New York, 576.

CRAIG, HECTOR, Representative from New York, 576; on the Buffalo and New Orleans Road, 708.

CRAIG, ROBERT B., Representative from Virginia, 576.

CRANE, JOSEPH H., Representative from Ohio, 576.

CRAWFORD, THOMAS H., Representative from Pennsylvania, 576; on the judiciary, 657; on the Buffalo and New Orleans Road, 712.

*Creek Indian Negotiation*.—*See Index*, vol. 8.

CRIGHTON, WILLIAM, Representative from Ohio, 577. *See Index*, vol. 9.

*Crimes against the United States*.—*See Index*, vol. 8.

*Penal Laws of the United States*.

CECHERON, JACOB, Representative from New York, 576.

CROCKETT, DAVID, on land claims in Tennessee, 193; do., 295, 298, 318; Representative from Tennessee, 576; on refuse lands in Tennessee, 579-587; on West Point Academy, 645; do., 669; on Revolutionary pensions, 687; on the Buffalo and New Orleans Road, 725. *See Index*, vol. 9.

CROWNINGSHIELD, D. W., Representative from Massachusetts, 576. *See Index*, vol. 9.

*Cuba, emigrants from*.—*See Index*, vol. 4.

*Cuba, its importance to the United States*.—*See Index*, vol. 9.

*Panama Mission*.

CULPEPPER, JOHN, on land claims in Tennessee, 299; on amending the rules, 330. *See Index*, vols. 3, 4, 5, 6, 7, 8, 9.

*Cumberland River*.—*See Index*, vol. 8.

*Cumberland Road*.—In the Senate, a bill to provide for the extension of, westerly from Zanesville, Ohio, considered, 233; every bill of this kind should be postponed until the great question of the expenditure of public money was settled, 233; a proposition now before Congress which would settle this question, 233; bill ordered to be engrossed, 234.

The bill and amendment present a subject of discussion of the deepest interest to the American people, 251; short historical sketch of the Cumberland Road, 251; the conclusion from this history is, that this road was made by the United States as a mere proprietor, to carry into effect a contract with the State of Ohio, and not as a sovereign, 252; the case of Pennsylvania, 252; what does this precedent establish? 253; the present bill proposes to change the character which the United States have hitherto sustained in relation to this road, from that of a simple proprietor to a sovereign, 253; the road was made in the manner that one independent sovereign would construct a road through the territories of another, 253; what does the power to erect toll-gates necessarily imply? 253; State courts not bound to

take jurisdiction of criminal offences against the laws of the United States, 253; all the penal enactments of this bill, or of future bills which it is intended to pass, must be carried into execution by the Federal courts 253; can any man say he believes the Federal Constitution intended to bestow such powers on Congress? 253; from the very nature of incidental power, it cannot transcend the specific power which called it into existence, 254; what is the nature of the power conferred on Congress "to establish post-offices and postroads?" 254; should Congress act on the precedent which this bill would establish, it is impossible to foresee the dangers which must follow to the States and to the people of this country, 254; the clause of the constitution relating to exclusive legislation, 255; the jealousy with which our ancestors conferred jurisdiction upon this Government, 255; resolution of Pennsylvania passed at their last session, authorizing the Federal Government to erect tollgates upon this road, 255; if the States have the power to cede jurisdiction, the United States have no power to accept such cessions, 255; if Congress has not the power to pass this bill, the States cannot confer it, 255; this question has already been settled, so far as a legislative precedent can settle it, 256; early feebleness of the Government, 256; a giant now, 256; a party friendly to the rights of the States and people should oppose this bill, 257; the constitutional question not involved, as the construction of the road rests on a contract prior to the constitution, 257.

*In the House*.—A resolution to inquire into the expediency of reporting a bill to construct the same in Indiana, 258; objects of the resolution, 259; amendment offered, 259; resolution carried, 259.

The bill proposes to erect tollgates on the Cumberland Road, 260; a mere question of property, and of the right in Congress to protect, by its laws, that property, 260; it is said the bill would impose great hardships upon the offender, 260; this road is a mail road, and the post-office laws, among other things, impose fines for obstructing the transportation of the mail, 260; why not also for passing a tollgate and refusing to pay? 260; this property belongs to the United States, 261; the United States now hold real estate in the limits of the old States, over which they have not exclusive jurisdiction, 261; having the property in this road, have they a right to erect tollgates for its preservation? 261; the sort of jurisdiction which the United States have over this road, 261; they have now the title to many parcels of land, over which they have no exclusive jurisdiction, 262; act of 1803, 263; amount of the two per cent fund, 263; the power to regulate highways is certainly not among the enumerated powers of the General Government, 263; if we have not the power to execute an end, we cannot use the means which conduce to it, 263; the attempt to derive the power from the military power, and that to establish post-offices and post-roads, 263; history of our progress on this subject, 264; it is said the constitution gives us power of erecting tollgates, if not, we are authorized to do it by compact, 264; these points examined, 264; all the powers which the constitution gives to Congress relate to persons and things, except two, which are to exercise exclusive legislation, &c., and the power to dispose of and make all needful rules, &c., 264; the rule by which to decide in what cases the sovereignty of the States has been alienated, 265; all the powers of the Government may be considered as emanates from its sovereignty, 265; with the exception of the cases cited, it is not competent for the General Government to exercise, or acquire by purchase, jurisdiction, 266.

Three questions present themselves for discussion

under this bill, 370; principal errors lying at the root of the subject, 370; is this Government a confederation of independent sovereign governments? 370; history of the formation of this Government, 370; the constitution was ratified, and subsequently enacted by the people of the several States, and not by the State Governments, 371; are the powers of the Government derived from the State Governments? 371; does this Government exist only in this ten miles square? 372; do the States enjoy a paramount and exclusive jurisdiction over the soil they cover? 372; this is a government of the people, and its powers are all sovereign and paramount, 373; a successful opposition to this bill requires that the force of legislative precedent should be destroyed, 373; unnecessary to speak of compacts on the subject of this road, 373; if the General Government cannot erect tollgates, can she authorize the erection of them by the States? 374; your contract to connect the Western world with the Atlantic border, 374; four-fifths of the lighthouses are erected within the limits of the States, 374; importance of the decision as to its effect on other contemplated improvements, 374.

No scruples of the existence of such a power in the constitution, 377; it is contended that this power, called the *making* power, does not involve the *preserving* power, 377; the efficiency of the one would be, in a great measure, destroyed without the other, 377; if repeated decisions, and the uniform practice of the Government could settle any thing, this question ought to be regarded as settled, 377; this road is now in a state of rapid decay, 378; the power of creation carries with it, as an inseparable incident, the power of preservation, 378; it is said the politicians of this country are hereafter to be divided into two great parties, 378; without internal improvements, what is the West ever to expect from the Government? 378; does the bill provide for such repairs and preservation of the road as is necessary? 379; Congress is vested with plenary powers by the constitution to construct roads and canals of a national character, 379; so far as principle is involved, the amendment presents quite as strong a question of constitutional power as the original bill, 379; a cursory view of the formation of the Government, and its powers prior to the adoption of the constitution, 380; objections to the Articles of Confederation, 380; the words of the constitution, 380; if the amendment prevails, it cannot fail to be considered as the abandonment by the Federal Government of the whole system of internal improvements, 381; why should we confide to certain States a duty we can as conveniently attend to as they? 381; difficult to define the powers of the General Government on all occasions, to avoid apparent conflicts, 381; the nature of our governments, 381; are the States then sovereign? 382; what do gentlemen mean by saying jurisdiction always attaches to soil? 382; no State can, without the consent of Congress, enter into any compact or agreement with another State, 383; views of the subject have been presented, calculated to engender serious doubts, 385; if the Government has the power, a strong necessity for its exercise exists, 385; conditions of the compact made relative to the Northwest, 386; rights and duties of the respective parties to this compact, 386; the fact of the expenditures cannot affect the power of the argument, 387; how Congress may derive the power of making an appropriation for that part of the road through Maryland, Pennsylvania, and Virginia, 387.

Two grounds of objection to the exercise of this power, 388; have Congress the right to erect tollgates? 388; principle upon which the State constitutions are predicated, 388; the only kind of road the United States can

make is postroads, 389; you must employ the same means to repair postroads as may be employed to establish them, and no other, 389; no system of policy of great and general interest can be either introduced here or successfully opposed, until public sentiment shall have been in some degree prepared for its adoption or abandonment, 389; anomaly in the pretensions of the leading advocates of this system of internal improvements, 390; grounds upon which it is attempted to sustain the authority of Congress to enact the main provisions of the bill, 391; if you grant the power to make the road, there is no constitutional impediment to the erection of tollgates, 391; the power in Congress to construct roads and canals has never been sanctioned by long and general acquiescence, 392; power of the Federal Government to apply to public use so much of the property of the citizens as may be required in the execution of this system of internal improvement, 392; it is said that Congress, being invested with the war-making power, and charged with the common defence, you would strip the country of one of the most efficient means of defence if you deny this power to make roads and canals, 393; further remarks, 393; what does this amendment propose? 395; a road leading from the Atlantic to the Mississippi was considered of great national importance, 395; political opinions of Mr. Jefferson, 395; to go as far as he did to appropriate money to make the road, was a fundamental error, 396; it has given rise to a new theory, 396; further debate, 396; bill ordered to third reading, 397; in the Senate, tollgates struck out, 400; House concur, 401. *See Index*, vols. 3, 4, 5, 9, and *Index*, vols. 7, 8, *Appropriations*.

## D

DANIEL, HENRY, on the Cumberland Road, 338; Representative from Kentucky, 576; on a Western armory, 533. *See Index*, vol. 9.

DAVENPORT, THOMAS, Representative from Virginia, 576. *See Index*, vols. 3, 9.

DAVIS, JOHN, Representative from Massachusetts, 576. *See Index*, vols. 3, 9.

DAVIS, WARREN R., Representative from South Carolina, 576. *See Index*, vol. 9.

*Deaf and Dumb Institutions, Donations to.*—In the Senate, the bill relative to, considered, 511; motion to include all the States where these institutions exist, 511; from what part of the constitution is the authority derived which the bill proposes to exercise? 512; necessary to give new States public lands for the maintenance of public institutions, 512; many precedents for bill, 512; the constitution always voted down on this floor, 512; bill laid on the table, 512. *See Index*, vols. 6, 8, 9.

*Debates, Register of.*—*See Index*, vol. 9.

*Debates, Reporting of.*—*See Index*, vol. 2.

DEBBERT, EDMUND, Representative from North Carolina, 576.

DECATUR, MRS., the case of, *see Index*, vol. 9.

*Defence Measures against Great Britain under John Adams.*—*See Index*, vol. 2.

*Delaware*, vote for President in 1833, 594. *See Index*, vols. 1, 2, 3, 4, 5, 6, 7, 8.

*Delaware Breakwater.*—In the House, a Senate bill for the erection of, called up, 187.

*Delaware and Chesapeake Canal.*—*See Index*, vol. 8.

*Delegates from Territories.*—*See Index*, vol. 1.

DENNY, PENILOPE, case of, *see Index*, vol. 8.

*Deserters, Bounty to.*—*See Index*, vol. 5.

DESHA, ROBERT, Representative from Tennessee, 576. *See Index*, vol. 9.

DEWITT, CHARLES G., Representative from New York, 576.

**DICKINSON, MARLOW**, on the drawback on sugar, 313; on the sinking fund, 323; on the distribution of the revenue, 237-231; Senator from New Jersey, 404; on a military peace establishment, 416; on pay of pursers in the Navy, 514, 517; on a Surgeon-General in the Navy, 523; on the Patent Office, 541, 543, 544. *See Index*, vols. 5, 6, 7, 8, 9.

**DICKINSON, JOHN D.**, Representative from New York, 578. *See Index*, vol. 9.

**Diplomatic Addresses.**—*See Index*, vol. 9.

**Diplomatic Expenses.**—In the House, a bill relative to, considered, 647; the diplomatic expenses have not equalled the sum asked for in the last four years, 648; sources from which the outfits of the new Ministers during the last summer were taken, 648; a relative comparison of the expenditures in this respect, 648; errors of the statement, 649; in our intercourse with foreign nations we should pursue a liberal policy, 650; last administration condemned, because in practice it repealed the law of 1810, 650; reason for a greater appropriation being required this year, 650; only in an extreme case that the House 'would be justified in withholding an appropriation for the outfit of a minister just appointed, 650; these outfits have been paid without any specific appropriation, 651; further debate, 651; bill ordered to be engrossed, 652.

**Diplomatic Intercourse.**—*See Index*, vol. 2.

**Disbursing and Accounting Officers.**—In the House, debate on, 73; practice previous to Jefferson's time, 73; his recommendations, 73; practice adopted, 73; expenditures, 73; note, 73; current expenditures, 74.

**Disbursements of the Public Money.**—*See Index*, vol. 7.

**Dismal Swamp Canal.**—*See Index*, vols. 8, 9.

**Distribution of the Revenue.**—In the Senate, a bill relative to, considered, 226; rapidly with which the public debt is becoming extinguished, 227; no doubt of the constitutionality of the measure proposed in this bill, 227; better to leave this surplus in the pockets of the citizens than to divide it among the States, 228; Congress has no right to raise a revenue for the purpose of distributing it, 228; a misunderstanding of the true character of this proposition, 228; what is found in the bill, 228; it seems to be thought advantageous to raise a revenue for the purpose of distribution, 228; what will be the effect of the bill, 229; object of the second section to postpone indefinitely the payment of the debt, 229; the question whether our national debt ever ought to be paid, 229; views in England on this point, at a former day, 230; motion to postpone made and withdrawn, 231.

**District of Columbia.**—*See Index*, vols. 2, 3, 6, 7.

**Divorces in the District of Columbia.**—*See Index*, vols. 8, 4, 7.

**DODDRIDGE, PHILIP**, Representative from Virginia, 576.

**Domestic Manufactures.**—*See Index*, vol. 5.

**DONNELSON, A. J.**, private Secretary to President Jackson, 579.

**DORSEY, CLEMENT**, Representative from Maryland, 576; on West Point Academy, 644; on the sloop-of-war *Hornet*, 657, 660. *See Index*, vols. 8, 9.

**Drawback on Refined Sugar.**—*See Duties on Imports*, vol. 10.

**Drawbacks.**—*See Index*, vols. 1 and 10, *Duties on Imports*.

**DRAYTON, WILLIAM**, on militia courts-martial, 4; on the case of William Morgan, 169; on the admission of railroad machinery free of duty, 188; on the drawback on refined sugar, 264; on the occupation of the Oregon River, 385, 390; Representative from South Carolina, 576; on Southern Indians, 609; on ardent spirits in the Navy, 671. *See Index*, vols. 8, 9.

**DUBOIS, MADAME**, the case of.—In the House, the case of, relative to bringing back slaves from Cuba, considered,

144; facts of the case, 144; right of every citizen of the United States to travel and take his servants, and bring them back, 144; case of ambassadors, 144; the law prohibiting the security of slaves was to be construed in the most strict and rigid manner, 145; further remarks, 145.

**DUDLEY, CHARLES E.**, Senator from New York, 404.

**DUDLEY, EDWARD B.**, Representative from North Carolina, 576.

**Duelling.**—*See Index*, vol. 6.

**DUNOAN, JOSEPH**, relative to mounted volunteers, 77; Representative from Illinois, 577; on distribution of the public lands, 593. *See Index*, vol. 9.

**Duties on Imports.**—In the House, the bill considered, 54; where are we to stop in this system of progressive protection? 54; the tariff of 1824, if rightly executed, would give all the protection which the people of this country ought at this time to expect, 54; full faith and credit should not be given to all the statements in petitions and memorials, 54; not a man would have thought of increasing the duty on certain articles, but for the clamor raised by the wool manufacturers, 55; hemp is abundantly protected, 55; the manufacturers of cordage seem to have escaped the notice of the committee, 55; look at the necessity for increasing the duty on duck, 56; system of fraud practised to avoid existing duty, 56.

Public interest directed for many years towards the establishment and progress of domestic manufactures, 57; no need of protection to the manufacturers of molasses, 57; increase of the business, 57; history of the legislation on this subject, 57; imports of molasses, 58; the poorer part of the population pay the greater portion of this tax, 58; the lumber business, by the imposition of double duties, would be annihilated, 58; the fisheries would wither at the loss of any important branch of our trade with the West Indies, 58; the interest of distilling molasses would necessarily be ruined by doubling the duties, 59; quantity annually distilled, 59; importance of the tobacco interest, 59; the restrictions of the constitution, 59; are these additional duties necessary to support the government and defend the country? 60; if there be a chosen race of men, it is the farmers, planters, &c., 60; the incessant augmentation of duties on imported articles to favor manufactures, is a dangerous procedure, 60; history of the tariff of this country, 61; it cannot be the policy of this Government to turn the manufacturing capital of this country to the manufacture of the raw material of foreign countries, when we can produce the same, 62; the proposed duty on wool, 62; the United States now produce a sufficient quantity of coarse wool for every demand of the present manufacturers, 62; calculation of the wool grown in the United States, 63; consumption of woollen goods in the country, 64; importation of foreign wool, 64; its conflict with the home article, 64; where is the evidence of the want of foreign coarse wool? 65; many of these importations are made in evasion of the spirit of existing laws, 65; it is alleged that most of the wool is of a finer quality than the native wool of the country, 65; it has been said that the demand for these coarse wools cannot be supplied by the native wools of the country, 66; what remedy is proposed against the importation of these coarse wools? 66; the subject of woollen cloths, 66; the cost of the raw wool in this country is about one half the cost of the cloth it makes, 67; the cost of the wool in this country is greater than the cost of the same wool in England, by from 50 to 80 per cent. upon the English cost, 67; what are the present and the proposed duties on these goods? 67; are the duties proposed sufficient to give to the manufacturer of woollen cloths that protection which he actually requires? 69; the frauds alleged to be committed, 70.

Motion to strike out the minimums, 74; this system is an entire departure from the settled policy of the Government, 75; what would be the effect of the minimums recommended by the Harrisburg Convention? 75; no combination of wool growers and wool manufacturers should ever attempt to dictate a tariff to the people of this country, 75; the Legislature of Pennsylvania has not sanctioned the proposition of the Harrisburg Convention, 76; the amendment will be an absolute and immediate prohibition of nearly all the foreign woollens worn by the poorer classes of the people, 76; the minimums will be premiums for the perpetration of fraud and perjury, 76; it is said they are sanctioned by the example of the cotton minimums, 76; the proposed measure of the Harrisburg Convention would give birth to a system of smuggling, 77; if you wish to adopt a prohibitory system, you have not selected a proper course, 77; amendment lost, 77.

The only foreign trade of North Carolina, 84; if this vent for our products is closed, great distress must ensue, 84; extent of the sales of lumber at the French Islands, 84; results of a voyage, 84; state of commerce at the ports on Ocracoke Inlet, 85; extract from a memorial, 85; amount of exports to the West Indies, 85; why shall this trade be so grievously oppressed? 86; it is said the bill is a compromise between two great contending parties, the manufacturers and the growers of wool and grain in the Northern and Middle States, 86; is the lumber and agricultural interest to be sacrificed, to try the experiment of making the American people consume whiskey? 87; history of the Madeira trade, 87; operation of the bill on North Carolina, 88; of more importance to the grain grower of North Carolina that the item relative to molasses should be retained in the bill than any other, 88; amendment rejected, 90; various amendments moved, 90.

Moved to strike out "ten" and insert "seven and a half" as the duty on molasses, 90; operation of the present law, 90; increase of duty on foreign spirits, 91; bounty to the manufacturer of rum from molasses, 91; how will this duty reach the western farmers but through the western distillers? 91; keeping the duty in the bill will get votes against its passage, 91; further remarks on the duty on molasses, 91, 92; amendment carried, 93; bill ordered to be engrossed, 93; the bill, 93.

Question on the passage of the bill, 95; motion indefinitely to postpone, 95; the bill is opposed at the outset by the manufacturers and wool growers, 95; all amendments are precluded, 96; the immaturity of the bill, 96; reckless precipitation with which the subject has been pressed to a conclusion, 97; the minimum principle, 97; absolutely impossible that any of the manufactures embraced in this bill can be made as cheap in this country as in those from which we import them, 98; what is the comparative price of labor in Great Britain and the United States? 98; statement of wages in Great Britain, 98; an American laborer receives nearly as much in a day as the English laborer in a week, 99; the same course of reasoning applicable to capital, 99; the cost of the raw material for woollen manufactures, 99; the idea that domestic competition will reduce the price till it becomes as low as the foreign production, is founded on an utter misconception, 100; address of the Harrisburg Convention, 100; its literary character, 100; it is conceded that free trade would be most conducive to a nation's prosperity, if all nations would pursue the policy of tolerating it, 101; fearful responsibility for the passage of this bill, 101; the burdens of this system have now reached a point beyond which you cannot carry them with impunity, 101; distressing to witness the kind of aristocratic influence by

which measures of this sort are obviously controlled, 102; we hear grave talk about promoting the interest of a "whole State," when in the very act of imposing a tax upon the great body of the people of that very State, 102; the injustice, impolicy and anti-republican tendency of this system, 103; it is alleged that the farmers are interested in the establishment of manufactures as a means of obtaining a market for their wool, 103; to attempt any interference with distribution of domestic capital and domestic labor by taxing one portion for the benefit of another under pretence of regulating commerce is a gross and fraudulent abuse of a constitutional power, 104; neither this government nor any free government can exist a quarter of a century under such a system of legislation, 104; what is the nature and tendency of the system we are discussing? 105; infatuation which a combination of capitalists and politicians have been able to diffuse over half the country, 105; subversive of the constitution, 106; observation of Chief Justice Marshall, 106; it was not the three penny tax on tea which led the colonists to resistance and independence, but the principle asserted, 106; the supremacy of Congress, 107; go back to fundamental principles, and not abide the decisions of legislative enactments merely, 107; source of the power to protect domestic manufactures, 107; speech of Mr. Randolph, 108; extract from the speech of P. P. Barbour in 1824, 108; a wide difference in a moral point of view between the direct and the consequential operation of a power, 108; if the encouragement of domestic industry is deemed of such consequence, let it be done by the States, consistently with the provisions of the constitution, 110; if Congress can constitutionally pass this bill, it can assume complete legislation over the subject, incorporate the companies, and do any thing else calculated to promote their interests, 110; if any bill is to pass, this one should, because out of the extreme evil the remedy is to come, 110; my object to enter a firm and unflinching protest against this whole system of restrictive or prohibitory imposts, 111; to this system, called American, there seems neither limit nor suspension, 111; state of feeling among the people, 112; you are coercing us in South Carolina to inquire whether we can afford to belong to a confederacy in which such severe restrictions is its established policy, 112; excitement under which some are acting, 112; it is said that we are not prohibited from manufacturing, 114; do not the numerous memorials upon our tables speak a language that should be listened to by this House? 115; the government was formed on the principle that the people should be able to control their rulers, 115; we too, like England, must have our schemes, 116; the flame of this manufacturing mania has been fanned in some States for political purposes, 116; compare the situation of the North at this time with the South, 116; owing to the system of legislation pursued by Congress, we are to attribute, in a great measure, the unprecedented depreciation of our property, 117; bill passed, 118; debate on the title, 118; *note*, 118.

*Drawback.*—In the Senate, a bill to extend the time within which merchandise may be exported with the benefit of drawback, considered, 209; course pursued in Great Britain on this subject, 209; time extended to two years, 210.

*Drawback on refined sugar.*—Four cents now allowed, and the object of the bill is to allow five cents, 210; it will enable the American to compete with the foreign manufacturer in foreign markets, 210; this system should be diminished or repealed altogether, 210; no reason why New Orleans sugar might not be made as dry and as fit for refining as the Havana, 210; shall

we give encouragement to the refiners in this country, or to foreigners? 210; the question is whether we shall allow the drawback to the whole amount of the duties or not, 211; original policy of the drawback system, 211; the refining of this article will aid the manufacturer, 211; state of things in 1794, 211; the principle of allowing a drawback was a plain and essential one to the navigation and commerce of the country, 211; in five years the production will equal the consumption, 212; amendment proposed and lost, 212; a nice calculation to know how much the refiner paid for his sugar, 212; five cents too great to be allowed, 212; the government will be the loser, 212; a bounty should not be paid to enable the manufacturer to send the proceeds of his industry abroad, 213; what is the object of refining? 213; number of manufacturers in the country, 214; the object of the bill is really to give one cent more on refined sugar than formerly, 214; amendment offered that the drawback should cease as soon as the exports equal the imports, 214; the drawback has never been allowed on the cost of the brown sugar, but solely on account of excise, 214; a drawback afterwards allowed, 214; the drawback did not originate with the excise, 214; advantages of the drawback system, 214; amendment passed and bill ordered to be engrossed, 215.

*Drawback, extension of time for.*—In the House, the question on the passage of the bill, 260; it proposes to abolish the per cent. charged on debentures, 260; it will take off \$150,000 from the revenue, 260; object of this per cent. charge, 260; this object now provided for, 260; object is to place the foreign trade on the wise and liberal footing of other nations, 261; erroneous impressions, 261; bill passed, 262.

*Drawback on refined sugar.*—The bill increasing the drawback on refined sugar taken up, 262; the bill proposes to give a bounty on domestic refined sugars, when exported, of five cents per pound under the pretext that this brown sugar pays three cents on importation, 262; object of the bill to correct an error in previous legislation, 263; what ought to be the actual amount of debenture? 262; effect of the bill to grant an additional drawback on refined sugar, 263; if sugar could be raised at home as cheaply as it can be imported, we should not go abroad for the article, 263; the bill ought not to pass, 263; this bill does not legitimately pertain to the system of drawbacks, 263; interfere with our domestic sugar, 264; not so, our domestic sugar is not suitable for refining, 264; we do not produce sufficient sugar for home consumption, 264; this bill will produce a benefit to the commerce and navigation of the country, 264; origin of our allowance of a drawback on refined sugar, 265; a mistake that the policy now contended for had been adopted during the first administration of the government, 266; amount of exports, 266; the advocates of this bill desire so to model our revenue laws as to direct thereby the application of a portion of our capital and labor to the manufacture of an article for exportation out of foreign materials, 266; it will not affect injuriously the production of domestic sugar, 266; sugar forms an essential article of our commerce, 267; in all other countries the drawback equalled the duty paid, 267; duty of Congress to encourage the carrying trade, 267; the only question respects the rate at which the drawback ought to be fixed, 268; more raw sugar brought into the country than is consumed, 268; what reason why such a manufacture should languish? 268; amendment to limit the drawback to foreign sugar when refined, 268; modification recommended, 269; no fears of injury to the sugar interest from this bill, 269; alleged that the drawback should equal the duty as the ground for the passage of the bill, 269; this bill will

give a preference to the foreign sugar over the domestic sugar, 270; statement of facts, 270; to the extent that the foreign sugar is refined, the bill will repeal the duty of three cents on that article, 271; a violation of public faith to do now any act to injure the Louisiana manufacturer, 271; the principle embraced in this bill, 271; expenses in Louisiana, 271; decline in the business of refining shown by facts, 272; the last law on the subject, 272; this decline not chargeable to the decreased proportion of drawback, 272; the bounty allowed to the foreign article is the reason why the domestic article is not refined, 272; answer to objections, 273; bill passed, 273.

*In the Senate*, a bill to reduce the duties on coffee, tea, cocoa, &c., 561.

*Salt.*—Motion to reduce the duty to ten cents on fifty-six pounds rejected, 561; salt tax overthrown in England, 561; enormous amount of the tax, 561; weight of a bushel, 562; distribution of the tax on different sections of the country, 562; the west the true seat of its most oppressive operation, 562; the provision carriers and exporters entitled to the same bounties and allowances with the exporters of fish, 562; the provision trade of the west, 562; reasons for keeping up this tax, 564; the salt tax brought to the test of the principles of the American system, 564; another ground of claim for the continuance of the duties examined, 565; it is said these duties should be kept up, as in time of war we must depend on the home supply, 565; all these arguments used in vain in England, 566; like result must come here, 566; bill ordered to be engrossed, 566.

*In the House*, a resolution instructing the Committee of Ways and Means to bring in a bill allowing a drawback of ten cents on distilled rum, 675; this resolution proposes to restore the manufacturer, in part, to the situation in which the tariff of 1828 found him, 675; statement of their position, 676; the repeal of this drawback has failed of the object intended, 676; it is not merely for the distiller we should pass this resolution, but for other extensive branches of industry, 676; whom relief to the West India trade will aid, 677; the material used by the distiller is as much the produce of our soil as the whiskey which the farmer gets in exchange for his grain, 677.

Moved to amend by allowing four and a half cents on cotton bagging, 677; explanation of the reasons which induced this motion, 677; the present excited and agitated state of the country on this general subject, 678; general remarks on the tariff, 679; of all the duties imposed by the tariff, that on bagging is most iniquitous and untenable, 679; it is charged against the South that we are too easily excited, 679; what claim has the manufacturer of bagging to the protection of government? 680; it is said, that it is important for the interests of the nation that her supplies should be drawn from her own resources, 680; it is said, the interest of one particular section must yield to that particular policy which promotes the interest of the whole, 680; trifling as this duty may appear, it is one of the highest among our imposts, 681; comparative merits of the claims to drawback of the two articles, 681; further remarks, 682.—See *Index*, vols. 1, 2, 3, 4, 5, 6, 7, 8, 9.

*Duties, Taxes, &c., Abolition of.*—In the Senate, leave to bring in a bill for, asked, 463; title of the bill, 463; abolition of unnecessary duties, 463; explanation, 463; first section, 464; abolishing duties by the joint act of the legislative and executive departments, 464; equivalents, 464; extract from Jefferson's report on commerce and navigation, 464; treaties abroad to be founded on legislative action at home, 465; recommendations of Washington and Jackson, 465; do not the agriculture and manu-

factures of the country require better markets abroad than they possess at this time? 465; a fair and practicable plan, combining the advantages of legislation and negotiation, 466; the peculiar recommendation of the plan, 466; other sections of the bill, 467, 468; it presents the tariff question under a new point of view, 468; that question has heretofore rested on two great principles—protection and retaliation, 468; how presented to the people under the proposed plan, 468; the principle of discrimination, 469; increased importation of gold and silver, 469; in promoting the internal trade of Mexico, 469; cause a speedy death and burial of the tariff question, 470; laws relative to the salt tax and the fisheries, 470; reasons for proposing to abolish the salt tax, 471, 472; leave granted and the bill read, 472; further considered, 490.

*Duties, discriminating.*—See *Index*, vol. 8.

*Duties on Tonnage.*—See *Index*, vol. 1.

DWIGHT, HENRY W., on Naval appropriations, 6; on visitors at West Point, 10; on the office of Major-General, 173; Representative from Massachusetts, 576.

## E

EARLE, JONAS, JR., Representative from New York, 576. See *Index*, vol. 9.

*Education, Committee on.*—In the House, a proposition to appoint a committee on education, 581; a subject which does not properly come within the control of Congress, 581; belongs to the States, 581; no necessity, 581; extract from the message of the first President, 581; constitutional point, 582; resolution laid on the table, 582.

EDWARDS, NINIAN, Address of, see *Index*, vol. 8.

*Election of President.*—See *Index*, vol. 1, and *Index*, vol. 8, *Presidential Election*.

*Electoral Vote for President.*—In the House, a resolution calling for copies of certificates and lists of votes returned at the last Presidential election, offered, 166; object of the resolution, 166; objections to the certificates, 166; the returns, 167; further remarks, 167; resolution laid on the table, 168.

*Eligibility of a resident in Washington to a seat in the House from Massachusetts.*—See *Index*, vol. 7.

ELLIS, POWHATTAN, Senator from Mississippi, 404; on the confirmation of certain land claims, 587. See *Index*, vol. 8.

ELLSWORTH, WILLIAM W., Representative from Connecticut, 576; on the judiciary, 655; on relief to widows, &c. of officers of the Hornet, 664.

*Embargo.*—See *Index*, vols. 8, 4, 5, and *Index*, vol. 1, *Great Britain*.

*Enlistments, Encouragement of.*—See *Index*, vol. 5.

EVANS, GEORGE, Representative from Maine, 576.

EVANS, JOSHUA, Representative from Pennsylvania, 576.

EVERETT, EDWARD, on visitors at West Point, 11; on the claim of Mesde, 45; on affairs with Brazil, 123, 127, 184; on the occupation of the Oregon river, 374, 380, 302; on retrenchment, 367; on the rules of order, 401; Representative from Massachusetts, 576; on West Point Academy, 645; on diplomatic expenses, 650; on relief to widows of officers of Hornet, 665; on Indian Affairs, 667. See *Index*, vols. 8, 9.

EVERETT, HORACE, Representative from Vermont, 576.

*Exchange of Stocks.*—See *Index*, vol. 7.

*Excises on Liquore.*—See *Index*, vols. 1, 5.

*Executive Departments.*—See *Index*, vol. 1.

*Executive Powers.*—See *Index*, vol. 8.

*Expatriation.*—See *Index*, vols. 2, 5, 6.

*Expedition against Porto Rico.*—See *Index*, vol. 7.

*Expenditures, Reduction of.*—See *Index*, vol. 7.

*Exploring Expedition.*—In the Senate, a resolution relative to an exploring expedition to the Pacific and South Seas, considered, 240; history of the expedition, 240; action of Congress, 240; a small vessel to be sent out, 241; proceedings of the Secretary of the Navy, 241; no law to sanction the South Polar Expedition, 241; reasons for calling for information, 242; resolution agreed to, 242; further discussed, 233; ordered to a third reading, 223.

*Expunging the Journal of the Senate.*—See *Index*, vol. 8.

## F

*Federal Judges.*—See *Index*, vols. 4, 5, and *Index*, vols. 2, 8, *Amendments to the Constitution*.

FINCH, ISAAC, Representative from New York, 576.

FINDLAY, JAMES, Representative from Ohio, 577. See *Index*, vols. 8, 9.

FISHER, GEORGE, Representative from New York, 576.

*Flag of the United States.*—See *Index*, vol. 1.

*Florida, Land Claims in.*—In the House, a bill relative to, considered, 183; facts relative to land claims in Florida, 183; stipulated by treaty that the United States shall confirm to the claimants their titles to the same extent as Spain would have done, 184; these titles depend on the local ordinances of a foreign government, 184; if the grant is not such as this government stipulated to confirm under the treaty, it is a part of the public domain ceded by it, 185; review of the history of our legislation on this subject, 185; particular stipulation of the Florida treaty, 186; bill ordered to be engrossed, 186.

*Florida, Affairs in.*—See *Index*, vol. 7. *Canal.*—See *Index*, vol. 8. *Government of.*—See *Index*, vol. 6. *Spanish Treaty; occupation of.*—See *Index*, vol. 4. *Purchase of.*—See *Index*, vol. 3. *Wreckers.*—See *Index*, vol. 8.

FLOYD, JOHN, on the late General Brown, 81; on the occupation of the Oregon river, 273, 291. See *Index*, vols. 6, 7, 9.

FOOT, SAMUEL A., on Indian appropriations, 141; Senator from Connecticut, 404; on a military force establishment, 416; on pay of pursers in the navy, 514, 515, 516, 518. See *Index*, vol. 9.

FORD, JAMES, Representative from Pennsylvania, 576.

*Foreign Ministers, Abuse of Privilege.*—See *Index*, vol. 8.

*Foreign Relations.*—See *Index*, vols. 4, 5.

*Foreigners, Petitions from.*—See *Index*, vol. 8.

FORSYTH, JOHN, Senator from Georgia, 404; on the Attorney General, 580; on the removal of the Indians, 582.

FOXT, TOMLINSON, on the confirmation of certain land claims, 537; on the Cumberland road, 370. See *Index*, vol. 9.

FORWARD, CHAUNCEY, Representative from Pennsylvania, 576. See *Index*, vol. 9.

FORSTER, THOMAS F., Representative from Georgia, 576; on Southern Indians, 612.

*France, Relations with.*—See *Index*, vols. 2 and 5.

*Franking Privilege to Charles Carroll*, 187; resolution passed, 187.

*Franking Privilege.*—See *Index*, vols. 1, 2.

*Freedom of Conscience.*—See *Index*, vol. 1.

FÄRLINSHUTEN, THEODORE, Senator from New Jersey, 404; on the removal of the Indians, 519; on the Attorney General, 581.

*French Colonial Trade.*—See *Index*, vol. 9.

*French Refugees.*—See *Index*, vol. 1.

*French Spoillations.*—See *Index*, vols. 2, 3, 7.

*French Decrees.*—See *Index*, vol. 5.

*Frontiers, Protection of.*—See *Index*, vol. 1.

**FRY, JOSEPH, Jr.**, Representative from Pennsylvania, 576.  
*See Index*, vol. 9.

**Fugitive Slaves.**—*See Index*, vols. 5, 6, 7, *Passes*.

**Fugitives from Justice.**—*See Index*, vol. 1.

**FULTON, ROBERT.**—In the Senate, a bill to recompense the heirs of, considered and rejected, 490.

**Fur Trade of the West.**—*See Index*, vol. 7.

## G

**GANTHER, NATHAN**, Representative from Kentucky, 576.

**Gales & Seaton elected printers.**—*See Index*, vols. 6, 7.  
**General Welfare.**—*See Index*, vol. 1.

**Georgia Claims.**—In the House, a motion to reverse the report of the Indian Committee, &c., 330; the question of these claims has never been examined by the House, 330; the merits of the claims, 330; details, 331; ground of action in the decision on these claims, 333; objects for which the claimants contend, 333; the Indians in defiance of the treaty kept the slaves, 333; are the Indians in consequence of their bad faith to be placed in a better situation and the owner of the property in a worse one? 333; the claimants were entitled to receive a just indemnification for the property not restored, 333; what is a just indemnification for a wrong? 333; the property has been lost for eleven years, and is the meagre return of the value of the slaves at the time they were taken an indemnification? 333; justice requires not only a return of the specific property, but compensation for the subsequent detention, 333; are the Indians entitled to the residue of the money after paying the claim of the citizens of Georgia? 334; determined by the treaty at the Indian Springs and the agreement between the Indians and the commissioners of Georgia, 334; stipulation of the treaty, 334; article of agreement, 334; commissioner appointed to decide on the claims, 334; his report to the President, 334; it is said, the Indians are not an independent people, 334; contents of the schedule of claims exhibited to the commissioner, 335; if injustice has been done to the claimants, it is proper for Congress to interpose, 335; the nature of the debt determined only by reference to antecedent treaties, 336; these treaties examined, 336.

The question is whether further legislation on this subject be now necessary or not? 336; what were the considerations that led to the formation of the treaty of 1831? 337; the question presents a covenant, to the perfecting of which the assent of three parties was necessary, 337; in carrying the intention into effect, indemnity for property destroyed is not admitted, 337; it is assumed that the Indians are entitled to the surplus after the satisfaction of Georgia, 337; the powers and rights pertaining by the principles of our Government to the Indian tribes in our confederacy, 337; how our forefathers treated the savages on first landing among them, 338; we scrupled not then to take lands on which we founded our homes that now cover the whole of our limits, 339; individuals possessed the right and power to make such purchases as they might think proper, 339; reason assigned for causing the change in the mode of acquiring Indian lands, 339; King George's proclamation in 1763, 339; further remarks on the policy pursued to the Indians, 340; article of the confederation, 341; what is deduced? 341; another clause, 341; examination of the different surrenders of the waste lands by the different States to the General Government, 343; conditions of those grants, 343; that of the State of New York, 343; that of the State of Virginia, 343; the States admitted from these territories must have the same rights as the original States, 343; that of South Carolina,

343; that of Georgia, 344; stipulation made as late as 1808, that the General Government should extinguish the Indian title, 344; anterior to these surrenders, so far as the Articles of Confederation went, the power of controlling this subject belonged exclusively to the States, 344; examination of the Constitution of the United States, 344; can Congress, if any State thought proper to interpose, take Indians from such State? 345; when the Indian title is extinguished, it is said, the land becomes public land, 345; 4th article of the ordinance for the government of the territory north of the Ohio, 345; may not the soil be in the General Government, and the people subject to the municipal regulations of the State? 346; general inference, 346.

The first question is, to whom the unexpended balance belonged, after satisfying the Georgia claimants? 347; circumstances under which the contract was entered into, 347; the United States have not done justice to the citizens of Georgia in its adjudication of their demands against the Creek Indians, 347; during the Revolutionary war the inhabitants of Georgia were almost entirely driven from its limits by the Creek Indians and their allies, 348; the exuberance of the natural vegetation of the country, instead of proving an advantage to the settlers, had been the occasion of their greatest losses by exposing their stock, 348; different classes of claims improperly rejected, 348; ought the citizens of Georgia to lose their right to have their injuries redressed because compensation was not provided in the treaty? 348; claims upon which the principal has been allowed and the interest refused, 349; claims rejected for the increase of female slaves taken by the Creek Indians, 349.

**Georgia Land Claims.**—*See Index*, vol. 2.

**Georgia Mills Claims.**—*See Index*, vols. 2, 6, 7, 8, 9.

**Georgia Protest.**—In the Senate, the protest of Georgia against the tariff act of 1833, offered, 231; contents and purport of the document, 231; to be deposited in the archives of the Government, 231; patriotism of the citizens of Georgia, 231; ordered to be printed for the use of the Senate, 232.

**Georgia, vote for President in 1828, 394.**—*See Index*, vols. 1, 2, 3, 4, 5, 6, 7, 8.

**German Language, Laws in.**—*See Index*, vol. 2.

**GILMER, GEORGE E.**, on the late General Brown, 73, 81; on Revolutionary soldiers, 158; on the Chesapeake and Ohio canal, 159, 168; on the case of William Morgan, 169; on the drawback on refined sugar, 265; on Georgia claims, 346.

**GILMORE, JOHN**, Representative from Pennsylvania, 576; on a western armory, 569.

**GOODENOW, JAMES M.**, Representative from Ohio, 577.

**GORDON, WILLIAM F.**, Representative from Virginia, 576.

**GORHAM, BENJAMIN**, on the assault on the President's Secretary, 194; on the drawback on refined sugar, 268; on the occupation of the Oregon River, 268; Representative from Massachusetts, 576.

**Government Executives of the 11th Presidential term, 494.**

**Great Britain, retaliatory measures on.**—*See Index*, vol. 1.  
**Greeks, aid to the.**—*See Index*, vols. 7, 8.

**GREENELL, GEORGE, JR.**, Representative from Massachusetts, 576.

**GREEN, INNIS**, Representative from Pennsylvania, 576. *See Index*, vol. 9.

**GRUNDY, FELIX**, Senator from Tennessee, 404; on Foot's resolution on the public lands, 480.

**Guatemala, Mission to.**—*See Index*, vol. 2.

**Gumboots.**—*See Index*, vol. 1.

**GURLEY, HENRY H.**, on the drawback on refined sugar, 269; on Ponchartrain canal, 268; Representative from Louisiana, 577. *See Index*, vols. 7, 8, 9.

## H

*Habeas Corpus, suspension of.*—*See Index*, vols. 8, 9.  
**HAILE**, —, on visitors at West Point, 10; on emigration of Indians, 14, 15. *See Index*, vol. 9.  
**HALL**, THOMAS H., on internal improvements, 365; Representative from North Carolina, 576; on Committee on Education, 561; on revolutionary pensions, 688. *See Index*, vols. 6, 7, 9.  
**HALLEY**, JERUEL H., Representative from New York, 576.  
*Hamilton, Alexander, report of, as Secretary of the Treasury.*—*See Index*, vol. 1, *Treasury*.  
**HAMILTON**, JAMES, JR., offers a resolution on militia courts-martial, 8; on visitors at West Point, 12; on retrenchment, 89; on the tariff bill, 110; on the assault on the President's Secretary, 195; on retrenchment, 196, 367, 369; on the rules of order, 402.  
**HAMMONS**, JOSEPH, Representative from New Hampshire, 576.  
*Harmony in Indiana, Society of.*—*See Index*, vol. 3.  
**HARVEY**, JONATHAN, Representative from New Hampshire, 576. *See Index*, vols. 8, 9.  
**HAWKINS**, JOSEPH, Representative from New York, 576.  
**HAYNE**, ROBERT Y., on the distribution of the revenue, 328; on the exploring expedition, 340; on the protest of South Carolina, 344; on revolutionary pensions, 348; on instructions to Panama ministers, 350, 354; Senator from South Carolina, 404; on a military peace establishment, 415; on Foot's resolution on public lands, 418, 423, 429; on donations to deaf and dumb asylums, 518; on pay of purgers in the navy, 518, 514, 515, 516, 518; on a surgeon-general in the navy, 528, 529; on the patent office, 541, 543, 544; on the pension laws, 547. *See Index*, vol. 9.  
**HAYNES**, CHARLES E., on cadets at West Point, 8; on the Chesapeake and Ohio canal, 180; Representative from Georgia, 576; on compensation of members, 588; on distribution of the public lands, 593; on Indian affairs, 668. *See Index*, vol. 9.  
*Heathen, propagating the gospel among.*—*See Index*, vol. 7.  
*Hemp, American.*—*See Index*, vol. 7.  
**HENRPHILL**, JOSEPH, on the Buffalo and New Orleans road, 690; Representative from Pennsylvania, 576. *See Index*, vols. 6, 7, 8, 9.  
**HENDERSON**, FRANCIS, JR., *The case of.*—*See Index*, vol. 7.  
**HENDRICKS**, WILLIAM, on school lands in Mississippi, 239; on the Chesapeake and Ohio canal, 346; Senator from Indiana, 404; on purchasers of public lands, 500. *See Index*, vol. 8.  
**HINDS**, THOMAS, Representative from Mississippi, 577.  
**HODGES**, JAMES L., Representative from Massachusetts, 576. *See Index*, vol. 9.  
**HODGSON**, EREBOCA, *Petition of.*—*See Index*, vol. 5.  
**HOFFMAN**, MICHAEL, on naval appropriations, 5, 7; on Indian emigration, 15; on the Chesapeake and Ohio canal, 180; Representative from New York, 576; on relief to widows, &c., of officers of the Hornet, 664; on ardent spirits in the navy, 670. *See Index*, vols. 8, 9.  
**HOLMES**, JOHN, on instructions to Panama ministers, 354; Senator from Maine, 404; on Foot's resolution on the public lands, 461; on a surgeon-general in the navy, 529; on the Attorney General, 530, 531; on the patent office, 543.  
**HOLMES**, GABRIEL, decease of, 593. *See Index*, vols. 8, 9.  
*Home Department.*—*See Index*, vol. 5, and *Index*, vol. 1, *Executive Department*.  
*Home Manufactures worn in the House.*—*See Index*, vol. 3.  
*Honors to the Brave.*—*See Index*, vol. 6.  
*Hornet, the sloop of war.*—In the House, a bill to provide for the widows and orphans of those lost in the Hornet sloop of war, 657; not justifiable to extend the princi-

ple to parents, brothers and sisters, 657; sustained by precedents, 657; bill ordered to be engrossed, 657.

Question on the passage of the bill, 659; a dangerous precedent to extend its benefits to brothers and sisters, 659; we have no right to be generous and charitable with the money of other people, 660; commitment moved, 660; the practice of the government in these cases, 660; feeling of distrust towards the navy in former times, 661; shall we admit that the course of our predecessors was dangerous and unwise? 661; the name of the Hornet will be as imperishable as the history of the last war, 661; history of Captain Norris, 661, 662; the principle of the bill has none of the objections offered to the pension system, 662; the bill is like others in relation to brothers and sisters, 663; the relations in which they stand, 663; this provision should meet with the sanction of the House, as it would most assuredly receive the approbation of the country, 663; case of the son of the late Colonel Forsyth, 663; cannot answer to our constituents or consciences, the propriety of thus appropriating the funds, 663; some disposed to "go the whole hog," 664; what is the object of making such an appropriation to those engaged in our land or naval service, 664; the bill is wrong in principle, 664; case of the mother of Commodore Perry, 664; a rule long established and recognized in the proceedings of this House, 664; the bill rests more on a principle of duty than of favor, 664; the objection assumes that the officers, seamen and marines belonged to that class of the community in which they were likely to have wealthy brothers and sisters, 665; those opposed must go against the principle of the bill, 665; occasion of the loss of the Hornet, 665; bill passed, 665.

*Horses lost in the Seminole war.*—*See Index*, vol. 7.

*House*, convenes at first session of 20th Congress, 8; adjourns at close of first session of 20th Congress, 300; convenes on second session of 20th Congress, 356; adjourns at close of second session of 20th Congress, 404; convenes at first session of 21st Congress, 576; adjourns at close of first session of 21st Congress, 794.

**HOWARD**, BENJAMIN C., Representative from Maryland, 576.

**HUBBARD**, HENRY, Representative from New Hampshire, 576; on Revolutionary pensioners, 683.

**HUGHES**, THOMAS H., Representative from New Jersey, 576.

**HUNT**, JONATHAN, on the tariff bill, 57; on the Pontchartrain canal, 359; Representative from Vermont, 576.

**HUNTINGTON**, JAMES W., Representative from Connecticut, 576; on the judiciary, 653.

*Huron, Proposed Territory of.*—In the House, a bill to establish a new territory west of Michigan, to be denominated the territory of Huron, 357; little expense to establish the territory, as most of the people are engaged in moving on lands leased of the United States, 357; other facts in the case, 357; only object to accommodate a few Indian traders, 358; respectable character of the inhabitants, 353; bill premature, 356; bill ordered to a third reading, 358.

## I

**IKERL**, PETER, JR., Representative from Pennsylvania, 576.

*Illinois, Admission of.*—*See Index*, vol. 6.

*Illinois*, vote for President in 1833, 394. *See Index*, vol. 8.

*Impeachment of Judge Peck, Articles of*, 555. *See Peck, Judge*.

*Impeachment.*—*See Index*, vol. 8.

*Imports.*—*See Duties on Imports*.

*Imprisonment for Debt.*—*See Index*, vols. 7, 8, 9.

*Indemnification of Foreigners.*—*See Index*, vol. 2.

*Indemnity for Spoillations.*—*See Index*, vol. 1, *Great Britain*.



*Indiana, Admission of.*—See *Index*, vol. 5.

*Indiana Canal.*—See *Index*, vol. 9.

*Indiana, vote for President in 1838, 394.* See *Index*, vol. 8.

*Indian Affairs.*—See *Index*, vol. 4.

*Indian Agencies.*—In the Senate, a bill to authorize the President to divide Indian agencies, considered, 451; reasons for the bill, 452; the proposed measure is a bad one, 452; individuals of the same tribe should be concentrated, 452; agents opposed to this arrangement, 453.

*Indian Department.*—See *Index*, vol. 7.

*Indian Factory System.*—See *Index*, vol. 7.

*Indian Lands within a State, Rights over.*—See *Index*, vol. 1.

*Indiana, Cherokee.*—In the House, an appropriation to extinguish the title to certain lands, considered, 136; are the Cherokees in Georgia willing to sell? 136; statement of the facts, 136; Senate amendment proposes also to extinguish the Cherokee title to all lands in North Carolina, 136; this committee refuse to concur, 136; duty to vindicate the rights and interests of Georgia, 137; the case of North Carolina has not been investigated, 137; the Indians can never prosper while they remain in any of the States or Territories, 137; the amendment of the Senate is injurious to the interests of Georgia, 137; it merely extends the power of the Commissioners, 137; the treaty would cost no more if the lands lay within twenty States, 138; the United States are under no obligation to extinguish the Indian titles within any State except Georgia, 138; strong reasons why North Carolina should share in the benefit proposed to Georgia, 138; Senate amendments approved in committee, 139.

House refuse to concur, 140; a discrimination between the case of North Carolina and that of New York challenged, 140; the General Government estopped to say that North Carolina could not call upon her to extinguish the Indian title, 140; nature of the Indian title, 140; what was Georgia at the close of the Revolution? 141; conflicting claims set up to this territory by several of the States, 141; further debate, 143.

Senate insist on their amendment, 146; motion that the House recede, 146; it is said, if we pass this claim it will be a precedent for other States, 146; no State has such strong claims as North Carolina, with the exception of Georgia, 146; treaty between that State and the Indiana, 146; treaty of Hopewell, 146; effect of this treaty, 147; when did New York, by treaty, extinguish all the Indian title to lands within her limits? 147; no State in the Union has been treated in the same unjust manner by the Government, 147; comparative merits of the respective claims of New York and North Carolina, 147; object of North Carolina in parting with her western lands, 148; obligation on this Government, 148; did the Government faithfully dispose of the lands? 148; it is said North Carolina solicited the Government to make the treaty, 149; further debate, 149; House recede, 150.

*Indiana, Chickasaw and Choctaw.*—See *Index*, vol. 9.

*Indiana, Emigration of.*—In the House, an amendment to the appropriation bill offered, 14; appropriation perfectly proper, 14; amendment to embrace the Chickasaws moved, 14; other bills in relation to them, 14; to bring in the subject at present would defeat other objects, 15; a propriety in including all the Southern Indians, 15; duty of the Government to take the earliest opportunity to extinguish the Indian title in Georgia, 15; the provision relative to the Cherokees introduced in conformity to a compact between the United States and Georgia, 15; claims of the Chickasaws further urged, 15; objections to the amendment, 16; the item came from

the Committee of Ways and Means, 16; if the Chickasaws are introduced, all the other Indians will have to follow, 16; importance of the removal of the Florida Indians, 17; not the time for a general discussion of Indian affairs, 17; distinction between the cases of the Creeks and Cherokees and that of the Chickasaws and other Indians, 17; without the appropriation, the Government cannot fulfil its compact with Georgia, 17; forbearance of Georgia, 18; amendment lost, 18.

Moved to strike out "for aiding the Cherokees, &c., to remove," 18; if a general course of policy is introduced by an item in an appropriation bill, the whole course of the Government might thus be changed, 18; there should be no treaty with the Indians without a previous appropriation, 18; now is the proper time to discuss the policy of the removal of the Indians, 18; now settled policy of the Government, 18; of little importance to the Committee at what time the question is met and discussed, 19; the question is one of momentous importance, 19; a just and humane course should be pursued towards the Indians, 19; is the situation of the Indians such as to require the interposition of the strong arm of the Government? 19; what are they now? 20; how have the treaties been made in former years, and how have their lands been acquired? 20; your annuities form the most destructive policy ever pursued towards them, 20; a part of your present policy is to send missionaries among them, 20; are the shades of this picture too highly colored? 21; they should be induced to remove of their own voluntary free will, 21; it is said we have no lands on which to locate them, 21; it is said the Indians cannot be qualified for self-government, 21; some appear to dread the effects of the policy of concentrating the Indians in one section of the country, 22; the fate of the Delawares, 22; will not the Committee rather adopt the policy recommended by two Administrations, by the missionaries, &c.? 22.

Reasons for the proposed amendment, 23; the ordinary appropriation bills should not be embarrassed by any new measures, 23; what was the proposition recommended by our late Chief Magistrate? 23; where are the Indians to be removed to? 24; situation of the country which the Indians now possess within the limits of the several States, 24; the advantages enjoyed by the four largest nations, 25; the present situation of the several tribes or nations, 25; their situation not worse than thousands of our independent yeomanry, 26; the policy of the late Secretary of War, Mr. Calhoun, 26; it is said the Indians are oppressed by the encroachments of the white population which surrounds them, 26; it is said the Indians, while in our vicinity, learn only our vices, and cannot be civilized here, 27; the expense which will attend this measure, 27; estimate for the Chickasaws, 27; look at the situation of the Indians across the Mississippi before we take more over, 27.

Great complaint made as to the manner in which this subject is presented for discussion, 28; the appropriation to aid the Creeks is but the fulfilment of a solemn obligation, 28; expediency and necessity of the appropriation, 29; the colonization of the Indians west of the Mississippi, 29; give that country to them in exchange for theirs, 30; to the pecuniary interest of the Government to remove them, notwithstanding the vast expense, 30; no other salvation for the Indians, 30.

The amendment that no Indians north of 36° 30' be aided in removing south of that degree, or those south in removing north, considered, 31; state of things in the Western and Southwestern States, 31; dangers of angry collision by the removal, 31; the extension of our laws over the Aborigines recommended by Mr. Crawford in 1816, 32; the prosperity of our settlements created a

strong desire in them to remove the Indians from their vicinity, 33; the report of the Secretary of War in 1835—the disposition of the Indians endangers the whole Western frontier, and renders the condition of Missouri peculiarly perilous, 34; the appropriation which is now proposed, 34; object of the removal as stated by Mr. Monroe, 35; no digest of fundamental principles has been adopted by Congress as the basis for arrangements with them, 35; result of removing them without such previous arrangement, 35; case of the Florida Indians, 35; can gentlemen go forward another step in this work of desolation? 36; what are the processes to be performed in the execution of this plan? 37; how are you to make them relinquish the chase in a country possessing the strongest inducements to it? 37; you cannot shut out the intercourse of the whites, 38; how are this great number to be reduced to order and regularity, and obedience to law, 38; cost of supporting them in the wilderness, 38; condition of this oppressed people in their present abode, 38; many of the tribes have made great and flattering advances in improvement, 38; they will not voluntarily assist in a work of reformation that must end in an extinction of their own consequence, 39; the Indian's sense of dignity, 39.

The views of all the Indian agents coincide with the friends of the emigration plan, 40; it is denied by some, that the policy of this Government is settled in relation to the question of Indian emigration, 40; the report of the Committee is altogether favorable to the objects embraced in the resolution, 40; the time has arrived when this Government must change its policy in relation to the Indians, 40; the state of things existing between the State of Georgia and the Cherokees, 41; three distinct sovereign legislatures enacting laws upon the same identical subject, 41; this state of things cannot exist, 42.

Singular course of this debate, 43; object of the amendment to destroy the effect of the appropriation, 43; the present policy must result in their utter annihilation, 43; the true question, 43; they are and ought to be considered as minors, and governed as such, 43; statements of the agents, 43; the title of the Florida Indians, 44; their colonization is alike due to ourselves and to the Indians, 44; Committee rise and report the bill to the House, 45.

*Indians, Florida.*—See *Index*, vol. 2.

*Indians, Quapaw.*—See *Index*, vol. 2.

*Indians, Removal of the.*—In the Senate, a bill to exchange lands with the Indians residing in States and Territories, considered, 519; amendments moved, 519; they hold a title superior to the British Crown and her colonies, and to all adverse pretensions of our own, 519; in the light of natural law, can a reason for a distinction exist in the mode of enjoying that which is my own? 519; on the increase of population a duty devolves upon the proprietors of large uncultivated regions of devoting them to useful purposes, 520; the case, as it lies beyond the treaties made with them, 520; how would the white man act in the position of the Indian, 521; we have always distinctly recognized their title, 521; we regarded them as nations, 521; our public history in these connections, 521; the dispute of the colonies with Great Britain, 523; under the Confederation, 523; who can doubt the unquestioned political sovereignty of these tribes? 522; a subject of wonder, that after these repeated and solemn recognitions, it should be gravely asserted that they are mere occupants at will, 523; report of the Committee, 523; our relations with them under the absolute superintendence of the General Government, 523; consideration given to the treaty power, 523; treaties with the Indians, 524; whenever we approached them in the language of friendship and kindness, we

touched the chord that won their confidence, 525; later treaty with Cherokees, 525; the legislation of Georgia, 525; it is not surprising that our agents advertised the War Department, that if the General Government refused to interfere, and the Indians were left to the law of the States, they would soon exchange their lands and remove, 526; the end, however, is to justify the means, 526.

Georgia has taken her course, and will pursue it, 523; the alternation of coercion must be the result, 523; Georgia stands perfectly justified in the steps she has chosen to take with regard to the Cherokees, 523; the treaty of Galphinton, 523.

The treaty of De Wet's Corner settles the question with the Cherokees, 523; the treaty of Hopewell, 524; it may be asked, what has this treaty to do with the question between Georgia and the Cherokees? 524; the compact of 1809 answers the query, 524; upon the principles assumed by the adversaries of the bill, Georgia stands justified, 524; what has been attempted? 525.

Will Congress authorize the President to exchange territory belonging to the United States, &c.? 528; the authority is to make the exchange with Indians who are willing, 528; is there any thing alarming in this proposition? 528; nothing in the bill unbecoming a great and magnanimous nation, 528; the Message of the President, 529; the first attempt by an act of Congress to operate directly on the States, 529; what will be the practical operation of this Indian protective system? 529; a conflict of laws, 540; proceedings in this case, 540; we are called upon to decide the subject according to the principles of abstract justice, 540; our title has always heretofore been considered as sufficient, 540; question on the amendment, 544; other amendments adopted, 545; bill ordered to be engrossed, 545; further proceedings, 574.

Report of the Committee, 606; moved to print ten thousand additional copies, 606; not true that it was not the intention of this Government and of Georgia to remove the Indians by force, 606; this denied, 606; Georgia has treated the Indians within her limits with humanity, 606; no such excitement in Georgia as has been imagined, 607; her relations with the United States are peculiar, 607; motion to postpone, 607; great misapprehension exists in the country in regard to this Indian question, 607; was it not proper first to know what opinions the report contradicts, and what it affirms? 607; erroneous impressions, 608; better to know what the report contains, 608; mere presumption that the report is partial and one-sided, 608; should not be pressed to vote blindly on this resolution, 608; motions carried, 608, 609.

*Indians, Southern.*—In the House, a memorial relative to, 607; reference moved, 608; propriety of entertaining every petition, 608; useless waste of the time of the House, 608; character of the petitions, 608; question of our Indian policy destined to create much discussion and feeling, 608; a few words by way of comment on the memorial, 608; it appears to have two objects, 608; whence the necessity of the petitioner's interference, 608; this discussion premature, and will result in no good, 609; a subject of great delicacy and importance, 609; commitment opposed on the ground of the language in which it is couched, 609; real intent of the subscribers, 609; details of the memorial, 610; regret that the memorial was not permitted to go to the Committee on Indian Affairs, 610; an impertinent intermeddling with other people's affairs, 610; it is time to have a definite policy on this subject, 611; what are our affairs, and what the affairs of the nation? 611; implicit confidence in the integrity and intelligence of the Committee on Indian Affairs, 611; the subject matter of the memorial

- pertains to the business of the House, 613; this right of petition has been deemed so sacred, that its security has been provided for in the Constitution, 613; if they speak respectfully to this House, it is all we have a right to require, 613; impossible to retreat from the discussion of the question, 613; the paper is sent here not only as a petition, but as an argument in opposition to the views of the President, 613; the many delicate terms made use of, in relation to Georgia and her policy, indicate the motives which prompted the petition, 613; will produce a feeling injurious to the public interest, 613; referred to the Committee on Indian Affairs, 618.
- Indian Title west of the Rocky Mountains.*—See *Indian*, vol. 8.
- Indian Tribes.*—See *Indian*, vol. 8.
- LEGUESILL, RALPH L., on the occupation of the Oregon River, 811; on lotteries in Washington, 808, 804; Representative from Connecticut, 576; on West Point Academy, 643; on diplomatic expenses, 647, 649. See *Indian*, vols. 8, 9.
- INGHAM, SAMUEL D., on visitors at West Point, 11.
- Intercourse, Commercial; do. Foreign; do. Non.*—See *Indian*, vol. 4.
- Interest due to certain States.*—In the Senate, bill providing for, considered, 414; how far may the accounting officers of the Government be authorized to go under the bill, 414; what does the bill propose? 414; how is the interest to be estimated? 414; for the allowance of interest on claims that have been allowed and paid, 414; subject postponed, 414.
- Internal Improvements, Resolutions on*, 365. See *Indian*, vols. 7, 8, 9.
- Invalid Corps.*—See *Indian*, vol. 5.
- IRREDELL, JAMES, Senator from North Carolina, 404.
- IRWIN, THOMAS, Representative from Pennsylvania, 576.
- IRWIN, WILLIAM W., Representative from Ohio, 577.
- ISAACS, JACOB C., on land claims in Tennessee, 394; Representative from Tennessee, 578; on refuse lands in Tennessee, 587. See *Indian*, vols. 7, 8, 9.

## J

- JACKSON, ANDREW, votes for as President in 1833, 394; notified of his election, 396; communication to the Senate relative to his inauguration, 393. See *Indian*, vols. 2, 8, 6, 7, 9.
- Jobs of States.*—See *Indian*, vol. 6.
- JENNINGS, JONATHAN, on visitors at West Point, 9; Representative from Indiana, 577. See *Indian*, vols. 4, 5, 7, 8, 9.
- JOHN, KENNY, JR., Representative from Delaware, 576. See *Indian*, vol. 9.
- JOHNSON, CARY, Representative from Tennessee, 576.
- JOHNSON, RICHARD M., on Sabbath mails, 323; on the Louisville and Portland Canal, 337; Representative from Kentucky, 576; on postponing the election of Clerk, 578; on a Western armory, 580, 585; on distribution of the public lands, 584.
- JOHNSTON, JOSHUA S., on the sinking fund, 326; on the drawback on sugar, 311; on the claim of Maison Rouge, 281-285; on the Louisville and Portland Canal, 283; Senator from Louisiana, 404; on the Attorney-General, 581; on the marine service, 485; on Foot's resolution on the public lands, 504.
- Journal of the Federal Convention.*—See *Indian*, vol. 7.
- Journal of the Old Congress.*—See *Indian*, vol. 6.
- Judges, Federal, Removal of.*—See *Indian*, vols. 2, 4.
- Judiciary System, the.*—In the Senate, a report on the resolution to equalizing the distribution of justice, considered, 368; a subject of great importance, 323; all admit the inequality, but impossible to report any specific plan, 326; bill laid on the table, 326.

In the House, a bill relative to, considered, 635; this bill proposes no new theory—no untried experiment, 635; prominent points of the judicial history of the United States, 635, 636; the great outlines of the jurisdiction of the Circuit Courts, 637; views of the Committee in relation to the question, 637; in regard to the States of Ohio, Kentucky, and Tennessee, 637; too great press of judicial business in each of these States composing the circuit, 637; causes that have contributed to swell the business, 638; situation of the six new States, Louisiana, &c., 638; inequality and injustice of the present system in another point of view, 639; does the present bill present the best plan for accomplishing the object under all the circumstances? 639; most powerful reasons for believing public opinion on this subject is correct, 639; suppose the withdrawal of the justices of the Supreme Court from their circuit, its effect upon public opinion, 639; would they continue to enjoy this extensive confidence, should they no longer be seen by the people of the States? 631; other reasons against the withdrawal of the judges from the circuits, 631; the judgment, like every other faculty of the mind, requires exercise to preserve its vigor, 631; the great objection to the passage of this bill, 639; extend the number of the judges, 639; upon the subject of judicial appointments, public opinion has always been correct, 639; have we no examples of Appellate Courts consisting of more than nine or ten judges, which have been approved by experience? 639; origin of the prejudice against this number, 639; details of the bill, 634.

Amendment to transfer the powers and duties of the Circuit to the District Courts, 635; does this bill carry the benefits of the judiciary to all the States? 635; decisions of the District Courts, in some cases, final and conclusive, 635; duties of the justices of the Supreme Court of two kinds, 635; ought not to resort to independent Circuit Courts and judges, if a better plan can be devised, 636; existing prejudices on this subject cannot be the fruit of experience, 636; how is it that they are to learn the laws and practices of the States? 633; it is said that the justices, if withdrawn from the circuits, would come to the city of Washington, 637; it would not be a thing of course, 637; the justices of the Supreme Court ought to be withdrawn from the circuits, 633.

Whatever be the judicial system, it should be uniform, 636; inequality of the present system as regards the Western States, 636; only ten States when the act was passed, 633; the seventh circuit, 633; present condition of the nine Western and Southwestern States in reference to the operation of the Federal Judiciary, 639; will this bill afford the remedy which the existing evils require? 640; plan to answer the just demands of the West, 641; what is the amendment proposed but a re-enactment of the system of 1801? 641; many and irresistible objections to it, 641; further remarks, 642.

Are the evils attending the practical operation of this system such as require any remedy? 639; the evils complained of, 639; does this bill furnish both an adequate remedy for existing evils, and the best which, under all circumstances, can be adopted? 638; no worse remedy can be adopted than that which increases the judges, 638; it tends to divide the responsibility, and thus diminish the weight of it, 638; an increase in the number tends to produce less concentration of action, &c., 634 also to impair public confidence in the court, 634; in two ways, 634; by increasing on the principle of this bill, may it not become impossible to despatch the business of this court? 635; amendment proposed to be offered, 635.

The system of 1819 preferable, 635; uniformity and

permanence are to be aimed at in establishing a Judiciary system, 656; two plans brought before the committee by the bill and amendments, 656; the proposed system is not adapted to the country, and must be finally abandoned, 656; no belief that the court can be made better by increasing the number of judges, 656.

The subject one of extreme difficulty and delicacy, 657; take no step to relax the present hold of the Supreme Court upon public esteem, 658; an increase of judges will have a tendency to destroy the confederate character of the Court, 658; the consideration of economy, 658; the proposed change not necessary, 658.

History of the judicial system of the United States, 673; the doctrine which repudiates the idea of representation in the judicial department is anti-republican, 674; this idea repudiated, 674; meaning of the term judicial representation, 675; are the judges responsible to the people? 675; further explanation, 675. *See Index*, vols. 2, 3, 9.

## K

KANE, ELIAS K., on school lands in Mississippi, 236; Senator from Illinois, 404; on a military peace establishment, 416. *See Index*, vols. 3, 9.

KENDALL, JOSEPH G., Representative from Massachusetts, 576.

KENNON, WILLIAM, Representative from Ohio, 577.

Kentucky, vote for President in 1823, 394. *See Index*, vols. 4, 5, 6, 8.

Kenyon College.—*See Index*, vol. 9.

KING, ADAM, Representative from Pennsylvania, 576. *See Index*, vol. 9.

KING, PERKINS, Representative from New York, 576.

KING, WILLIAM B., Senator from Alabama, 404. *See Index*, vols. 4, 5, 6, 7, 8, 9.

KINKEAD, JOHN, Representative from Kentucky, 576.

KNIGHT, NICHOLAS R., Senator from Rhode Island, 404; on the officers of the Revolution, 563. *See Index*, vols. 7, 8, 9.

KREMER, GEORGE, on the Territory of Huron, 358; on lotteries in Washington, 369. *See Index*, vols. 3, 9.

## L

Lafayette, gratitude to.—*See Index*, vols. 1, 2, 7, 8.

Lake Superior Copper Mines.—*See Index*, vols. 2, 7, 8.

LAMAN, HENRY G., Representative from Georgia, 576; on Indian affairs, 668.

Lands for Education.—*See Index*, vol. 7.

Land Claims, Confirmation of certain.—In the Senate, the bill relative to certain claims in Mississippi, 537; moved to insert fifty cents per acre, 537; not consistent with the plighted faith of the Government, 537; further details, 537; bill ordered to be engrossed, 538.

Land Titles in Louisiana, *do.* Missouri.—*See Index*, vol. 7.

Lands, Western.—*See Index*, vols. 1, 2, 4, 6, 7, Public Lands.

LEA, PRYOR, on land claims in Tennessee, 315; Representative from Tennessee, 576. *See Index*, vol. 2.

Lead Mines of Missouri.—In the Senate, the bill for the sale of, considered, 307; bill confined to the mines within the State, 307; these mines of very little profit to anybody, 307; bill ordered to be engrossed, 309.

Lead Mines, reserved sale of.—*See Index*, vols. 7, 8.

LECOMPTON, JOSEPH, Representative from Kentucky, 576.

LEFFLER, ISAAC, on the Chesapeake and Ohio Canal, 164. *See Index*, vol. 2.

LEWIS, GEORGE G., Representative from Pennsylvania, 576.

LEWY, JAMES W., Representative from New York, 576.

LEWIS, ROBERT P., Representative from Kentucky, 576; on mileage of members, 693. *See Index*, vols. 7, 9.

LEWIS, DIXON H., Representative from Alabama, 577; on distribution of public lands, 606.

Liberia Agency.—*See Index*, vols. 3, 9.

Library of Congress.—*See Index*, vol. 2.

Library of Mr. Jefferson.—*See Index*, vol. 5.

Lieutenant-General.—*See Index*, vol. 5.

Light House Duties.—*See Index*, vol. 2.

Limitation, Statutes of.—*See Index*, vols. 2, 4.

LITTLE, PETER, on the late General Brown, 79. *See Index*, vols. 4, 5, 6, 7, 8, 9.

Lies Oak Timber.—*See Index*, vols. 7, 9.

LIVINGSTON, EDWARD, on the late General Brown, 79, 80; on the Tariff bill, 92; on contraventions of Russian treaty, 141; on Foot's resolution on the public lands, 490; on donations to deaf and dumb asylums, 512. *See Index*, vols. 1, 2, 4, 8, 9.

Loan Bill.—*See Index*, vol. 5.

LOCKE, JOHN, on land claims in Tennessee, 123, 319. *See Index*, vols. 3, 9.

Lots, Public, in Washington.—*See Index*, vol. 7.

Lotteries in Washington.—In the House, a bill to continue in force an act authorizing, *do.*, considered, 368; the principle is odious, immoral, and impolitic, 368; further debate, 364; bill recommitted, 364.

Louisiana, vote for President in 1823, 394. *See Index*, vols. 4, 5, 6, 8.

Louisiana, Purchase of.—*See Index*, vols. 2, 3. Treaty, *see Index*, vol. 2. Territory, *see Index*, vols. 2, 4.

State, *see Index*, vol. 6.

Louisville and Portland Canal.—In the Senate, a bill authorizing subscription to the stock of, considered, 326; the canal cannot be completed without the aid of Government, 326; expenditure had far exceeded the estimates, 326; much greater work than was anticipated, 327; the bill should lie on the table until the question of distribution of the public money was settled, 327; not a local work, 327; importance of the bill, 327; not a new application, 328; bill ordered to a third reading, 328.

LOWRIE, WALTER, Secretary of the Senate, 404. *See Index*, vols. 3, 9.

LUMPKIN, WILSON, on emigration of Indians, 15, 17, 39; on Indian appropriations, 126; Representative from Georgia, 576; on Southern Indiana, 618. *See Index*, vol. 2.

LYON, CHRISTOPHER, Representative from Kentucky, 576. *See Index*, vol. 2.

## M

MAGEE, JOHN, Representative from New York, 576. *See Index*, vol. 9.

Mail Theft.—*See Index*, vol. 7.

Maine, Admission of.—*See Index*, vol. 6.

Maine, vote for President in 1823, 394. *See Index*, vols. 6, 8.

Maison Rouge, Claim of.—In the Senate, a bill to provide for the adjudication of, 320; motion to postpone to allow time for inquiry, 321; has been before Congress twenty-five years, and the holders dare not sell the lands, 321; further remarks, 321; proposal to refer to a judicial decision, 324; not competent for Congress to pass such a law, 324; the power for individuals to bring suits against States taken away, 326; titles to all the claims similar, 325; facts of the case, 325; almost no land sold in Louisiana, and her private claims unadjudicated for twenty-five years, 326; there exists in every Government a power of giving the citizen a remedy against the Government, 326; bill ordered to be engrossed for a third reading, 328. *See Index*, vol. 2.

Major-General, Office of.—In the House, a bill to abolish the office of, considered, 172; motion to strike out the section placing militia officers next after officers of like

- grade in the regular army, 173; degrades militia officers, 173; if the bill pass, it will afford the President an opportunity to place at the head of the army an able and efficient man in time of war, 173; amendment agreed to, 173; question on the passage of the bill, 173; objects of the bill to improve the organization of the army, or to reduce its expenses, 173; will it improve the organization to take away its military head? 173; nothing to recommend this proposition, 173; does experience prove that any such General-in-Chief is necessary? 173; the plan of Mr. Calhoun for the reduction of the army, 174; where shall we find precedents to recommend this organization of the army? 174; up to the rank of Colonel the officers have a right to be regularly promoted, not beyond that rank, 175; the case of Gen. Brown, 175; a view of the organization of the army and the powers of the different departments of command, showing that this office is not what its name implies, but a useless station, 175; nature and scope of the functions of the Secretary at War, 175; office and duties of the General-in-Chief, 176; distribution or arrangement of troops to stations, 176; inspection of troops, 176; recruiting, 177; other duties, 177; bill ordered to a third reading, 179.
- MALLARY, ROLLIN C.**, on visitors at West Point, 9; on the drawback on refined sugar, 373; on land claims in Tennessee, 397; on amending the rules, 390; Representative from Vermont, 376; on distribution of the public lands, 584, 588; on a Western armory, 586; on a drawback on cotton bagging, 673. *See Index*, vols. 7, 8, 9.
- MARIGNY D'AUTREIVE**, case of, *see Index*, vol. 9.
- MARABLE, JOHN H.**, on the adjournment of Congress, 190. *See Index*, vols. 8, 9.
- Marine Service**.—In the Senate, resolutions relative to, considered, 438; an objectionable mode of obtaining information, 438; reasons for offering the resolutions, 438; are either marines or soldiers necessary as part of the armed force on board a vessel of war? 434; the distinction of punishments between soldiers and sailors, 434; marines not indispensable to sea service, 434; they are not necessary to guard the seamen and prevent mutiny, 434; can their service be dispensed with without injury? 435; cannot seamen be employed in lieu of marines at our naval stations? 435; resolution unnecessary, 436; referred to the Committee on Naval Affairs, 436.
- MARR, WILLIAM**, on the commerce of the West, 309; on Revolutionary pensions, 343; Senator from Pennsylvania, 404; on interest due to certain States, 414; on donations to deaf and dumb institutions, 511, 512. *See Index*, vols. 8, 9.
- MARR, ALEM**, Representative from Pennsylvania, 576.
- MARTIN, WILLIAM D.**, on Indians in North Carolina, 143; on the Chesapeake and Ohio Canal, 159; Representative from South Carolina, 576; on distribution of the public lands, 583, 592. *See Index*, vol. 9.
- MARTINDALE, HENRY C.**, Representative from New York, 576. *See Index*, vols. 7, 8, 9.
- Maryland Memorial on the state of National Affairs**.—*See Index*, vol. 5.
- Maryland**, vote for President in 1838, 394. *See Index*, vols. 1, 2, 3, 4, 5, 6, 8.
- Massachusetts Memorial on the War of 1812**.—*See Index*, vol. 5.
- Massachusetts Claim**.—In the Senate, a bill to provide the payment of, introduced, 418; a bill to authorize the payment of, considered, 586; statement of the nature of the claim, 585; the action of Congress upon it, 585; opinion of the Committee, 585; it is the claim of two States, 585; presented and urged for payment by every Administration in Massachusetts, 587; a few remarks in relation to it, 587; proceedings upon the claim by the General Government, 587; bill ordered to third reading, 588.
- Massachusetts Militia Claims**.—*See Index*, vols. 8, 9.
- Massachusetts**, vote for President in 1838, 394. *See Index*, vols. 1, 2, 3, 4, 5, 6, 8.
- MAXWELL, LEWIS**, Representative from Virginia, 576. *See Index*, vol. 9.
- MAXWELL, THOMAS**, Representative from New York, 576.
- Mayville and Lexington Road**.—In the Senate, a bill authorizing a subscription to the stock of, considered, 567; can any man say in what this system is to end? 567; consequences of passing this bill, 568; condition of Virginia for want of good roads, 568; in vain to represent the benefits of this system, 569; in vain Virginia protested, 569; customary to ridicule the Virginia doctrines of late years, 570; bill passed the Senate, 570.
- McCoy, WILLIAM**, on cadets at West Point, 8; on land claims in Tennessee, 181; Representative from Virginia, 576. *See Index*, vols. 4, 5, 6, 7, 8, 9.
- McCREARY, WILLIAM**, Representative from Pennsylvania, 576.
- McDUFFIE, GEORGE**, on naval appropriations, 5, 6; on appropriation for visitors at West Point, 8; on the emigration of Indians, 14-18; on the late General Brown, 79-81; on the Tariff bill, 97; on the office of Major-General, 178; reports on the assault on the President's Secretary, 179; on the drawback on refined sugar, 363, 363; Representative from South Carolina, 576; on the pay of members, 606. *See Index*, vols. 7, 8, 9.
- McINTYRE, RUFUS**, Representative from Maine, 576. *See Index*, vol. 9.
- McKINLEY, JOHN**, on the Northeastern boundary, 232; Senator from Alabama, 404; on the mounted infantry bill, 500, 502; on donations to deaf and dumb institutions, 512; on the Patent Office, 542; on the Attorney-General, 581. *See Index*, vol. 9.
- McLEAN, WILLIAM**, on Indian emigration, 13, 23; on the Chesapeake and Ohio Canal, 247; on Georgia claims, 384. *See Index*, vols. 8, 9.
- McLANE, JOHN**, on the sinking fund, 246; Senator from Illinois, 404.
- Meade's Claim under the Florida Treaty**.—In the House, a bill for the relief of Richard W. Meade, considered, 45; statement of the claim, 45; the leading facts and points of the case, 45; what was the remedy provided by the treaty for those citizens of the United States, whose claim to relief from Spain had been renounced? 45; Meade among the earliest of the claimants who applied for relief, 46; the amount of his claim, and the evidence necessary to establish it, 46; view taken by the Board of Commissioners, 46; the original vouchers from Spain required, 47; tone of the Spanish Minister, 47; adherence of the Board, 47; application to the Court at Madrid, 47; expiration of the time fixed by the treaty, 48; Meade deprived of his rights under the treaty, 48; what then can be done? 48; proposition of the Committee, 49; another view of the case, 49, 50; upon what ground is it that the Government of the United States are now called upon to pay this enormous claim? 51; to what will the passage of this bill lead? 52; the particular provisions of this bill highly exceptionable, 53; different grounds taken at different times by Meade in relation to this bill, 53.
- Unfitness of the House to be a tribunal for the decision of private claims, 70; why are not the documents necessary to sustain this claim produced? 70; let them be produced before the Auditing Committee is appointed, 71; it has been said that the passage of this bill will not commit the House on this claim, 71; further objections, 71; every Government is bound to protect its citizens, 71; have not the United States discharged in good faith all the obligations imposed upon them by the treaty? 72; bill rejected; 72. *See Index*, vol. 9.
- Mediterranean Trade**.—*See Index*, vol. 2.
- Members of Congress, appointments of**.—*See Index*, vol. 3.

**MERCER, CHARLES F.**, on the Chesapeake and Ohio Canal, 157; on the Ohio Canal, 192; on the assault on the President's Secretary, 195; on the Cumberland Road, 333; on amending the rules, 339; Representative from Virginia, 576. *See Index*, vols. 3, 9.

**Messager**, at 2d session of 90th Congress, 300; relative to Panama documents, 259; at 1st session of 20th Congress, 405.

**Military Academy and Academies**.—*See Index*, vols. 2, 5, 7.

**Military Roads**.—*See Index*, vol. 7.

**Militia Courts-Martial**.—In the House, a resolution relative to, considered, 8; amendment proposed, 8; not the privilege of a Committee of Congress to say when and how documents should be printed, 8; the mode indicated by the order of the House, 8; object of the Committee that the people should not have the documents without a glossary to accompany them, 8; what friend of General Jackson's would say these documents should not go forth until his friends had prepared a commentary? 4; the course pursued at the last session, 4; what is the intrinsic nature of the question now before the House? 4; shall the documents be printed with or without the report of the Committee? 4; the Committee censured, 4; two distinct series of printing, one embraces Executive documents, and the other reports of Committees, 4; resolution passed, 5. *See Index*, vol. 9.

**MILLER, DANIEL N.**, on cadets at West Point, 8; Representative from Pennsylvania, 576; on Indian affairs, 668. *See Index*, vols. 7, 8, 9.

**MINER, CHARLES**, on land claims in Tennessee, 396; on slavery in the District of Columbia, 306. *See Index*, vol. 9.

**Mint**.—In the House, a bill relative to, considered, 145; provisions of the bill, 145; our standard for the alloy of gold and silver, 145; explanation, 146; bill ordered to a third reading, 146.

A resolution to inquire into the expediency of a branch mint in North Carolina, reconsidered 591; interesting information would be elicited by such an inquiry, 591; necessity of such a branch, 591; resolution carried, 592. *See Index*, vol. 1, 3.

**Miranda's Expedition**.—*See Index*, vol. 4.

**Mississippi River, free navigation of**.—*See Index*, vol. 2.

**Mississippi State**.—*See Index*, vol. 5, *Territory*. *See Index*, vol. 4, *Territories*.

**Mississippi, vote for President in 1833**, 374. *See Index*, vol. 3.

**Missouri**.—*See Index*, vols. 4, 5, 6, 7.

**Missouri, vote for President in 1833**, 394. *See Index*, vols. 6, 8.

**Missouri, Land Claims in**.—In the Senate, a bill for the final adjustment of, considered, 234; asked for by the Legislature of the State, 234; premature to act on the subject at this time, as there is a law limited as to time, 234; the same law passed by Congress has been construed differently as yes and no, 234; amendments offered and passed, and bill ordered to the third reading, 234.

**MITCHELL, JAMES C.**, on the adjournment of Congress, 190; on Indian appropriations, 137; on the occupation of the Oregon River, 333. *See Index*, vols. 7, 8, 9.

**MITCHELL, THOMAS E.**, on the Cumberland Road, 305. *See Index*, vol. 3, 9.

**MITCHELL, GEORGE E.**, Representative from Maryland, 576.

**MONELL, ROBERT**, Representative from New York, 576.

**Monroe Doctrine**.—*See Index*, vols. 3, 9.

**MORGAN, WILLIAM, the case of**.—In the House, a memorial relative to, offered, 163; the allegation that an officer of the United States at Niagara received and imprisoned a man without legal authority, 163; Congress nothing

whatever to do with the subject, 163; proposition to refer the memorial to the President, 169; a case in which the House ought not to interfere, 169; a civil offense, 169; settled on a former occasion that such a complaint belongs to the notice of the Government, 170; the memorial ought to go to the Executive, 170; motion thus to refer carried, 171.

**Mother of Commodore Perry**.—*See Index*, vol. 7.

**Mounted Infantry**.—In the Senate, a bill relative to, considered, 497; features of the bill, 497; one object to give defence and protection to the trading caravans between Missouri and Mexico, 498; further remarks, 499; bill ordered to be engrossed, 500.

**Mounted Troops**.—*See Index*, vol. 4.

**MUHLKREUTH, H. A.**, Representative from Pennsylvania, 576.

## N

**National Observatory**.—*See Index*, vols. 2, 5.

**Naturalisation Laws**.—In the House, a bill to amend, considered, 139; reasons for the bill, 139. *See Index*, vols. 1, 3, 4.

**Naval Exploits**.—*See Index*, vol. 7.

**Naval Pension Fund**.—*See Index*, vol. 7.

**Naval School**.—*See Index*, vol. 3, and *Index*, vol. 9, *Naval Establishment*.

**Naval Establishment, Appropriations**.—In the House, the bill making appropriations for the naval service of 1833, considered, 5; what is the increase in the number of officers? 5; the increased appropriation for this item is \$30,000, 5; the actual increase, 5; the only limit is in restricting their pay, 5; improper that the number of officers should be left discretionary with the Executive, 5; not expedient to fix a peace establishment, 5; causes which led to an increase of the navy, 5; the estimate should be compared with the expenses, 6; number of officers employed is not to be regulated by the number of vessels in commission, 6; the Navy Department should be permitted to arrange the number of officers as it thought proper, 6; the discretion of the Department improperly exercised, 6; the number of officers not too great for a permanent peace establishment, 6; danger apprehended from the rise of piracy in the West Indies, 6; the House can check the appointing power by the amount of appropriations, 6; our commerce had required inconstant protection, 7; no nursing and schooling required to form the able officer, 7.

Appropriation to purchase live oak timber land moved, 7; object to extinguish private titles, 7; other amendments moved, 7. *See Index*, vols. 1, 2, 3, 4, 5, 6, 7, 9.

**Navigation Laws**.—*See Index*, vol. 4.

**Negroes, kidnapping of**.—*See Index*, vol. 2.

**Negroes, free, in the District of Columbia**.—*See Index*, vol. 2.

**New Hampshire, vote for President in 1833**, 394. *See Index*, vols. 1, 2, 3, 4, 5, 6, 8.

**New Jersey, vote for President in 1833**, 394. *See Index*, vols. 1, 2, 3, 4, 5, 6, 8.

**New Mexico and Missouri, inland trade between**.—*See Index*, vol. 3.

**New Orleans, defence of**.—*See Index*, vol. 5.

**NEWTON, THOMAS**, Representative from Virginia, 576. *See Index*, vols. 2, 3, 4, 5, 6, 7, 8, 9.

**Neutral Relations**.—*See Index*, vols. 3, 4, 5, 6, 7.

**New York, vote for President in 1833**, 394. *See Index*, vols. 1, 2, 3, 4, 5, 6, 8.

**Niagara Sufferers**.—*See Index*, vol. 5, 6.

**NOBLE, JAMES**, on the Chesapeake and Ohio Canal, 246; on Revolutionary pensions, 248; Senator from Indiana, 404; on pre-emption rights, 413; on the Patent Office, 544.

**Non-Exportation in foreign bottoms**.—*See Index*, vol. 4.

*Non-Importation.*—*See Index*, vols. 3, 4.  
*Non-Intercourse.*—*See Intercourse.*  
*Northwest Coast, Exploration of.*—*See Index*, vols. 7, 8.  
*Northeastern Boundary.*—In the Senate, a resolution relative to, considered, 232. *See Index*, vol. 3.  
*North Carolina, vote for President in 1833, 304.* *See Index*, vols. 1, 2, 3, 4, 5, 6, 8.  
 NORTON, E. F., Representative from New York, 576; on diplomatic expenses, 651.  
 NUCKOLLA, WILLIAM T., Representative from South Carolina, 576. *See Index*, vol. 9.

## O

*Oaths.*—*See Index*, vol. 1.  
*Occupying Chalmers Lane.*—*See Index*, vol. 3.  
*Office, a certain, an inquiry respecting.*—*See Index*, vol. 5.  
*Officers, removal of.*—*See Index*, vol. 1.  
*Officers of the Customs.*—*See Index*, vol. 7.  
*Offices, plurality of.*—*See Index*, vol. 3.  
*Ohio Canal, land grant to.*—In the House, a bill considered, 187; further remarks, 188, 189; mistake in the bill, 189; *note*, 189.  
 Reconsideration moved, 189; never was a transaction in any legislative body more susceptible of explanation than the vote of the House, 191; explanation of the charge against the Clerk of the House, 191; the region of the Dayton Canal the best watered in the State, 193; further debate, 193; bill rejected, 192.  
 Amendments of the Senate considered, 197; *note*, 197; changing the bill, 196.  
*Ohio State Government.*—*See Index*, vol. 2.  
*Ohio, vote for President in 1833, 304.* *See Index*, vols. 5, 6, 8.  
*Ordinance of 1787.*—*See Index*, vols. 2, 4, and *Index*, vol. 6, *Missouri.*  
*Orleans Territory.*—*See Index*, vol. 4, *Territories.*  
 OVERTON, W. H., Representative from Louisiana, 577.  
 OWEN, GEORGE W., on Georgia claims, 336. *See Index*, vol. 9.

## P

*Paintings of the principal events of the Revolution.*—*See Index*, vol. 5.  
*Paintings, Historical.*—*See Index*, vol. 9.  
*Paintings, National,* resolution relative to, 198.  
*Panama Ministers, instructions to.*—In the Senate, a resolution calling for the instructions to ministers to Panama offered, 249; interesting to know the results of the mission, 249; these instructions may contain matter which was improper to go before the public, 249; the object is that the Executive may have an opportunity to publish these instructions in vindication of his conduct, 249; it properly belongs to Executive business, 250; who can tell what may be its character as disclosed by the communications which may be made in answer? 250; alarm of the country in relation to the Panama Congress, and desirable to know what grounds for this alarm, 250; the object is to ease the President by the interposition of this body, 251; an act of courtesy, perhaps of justice, to a retiring administration, 252; resolution laid on the table, 252.  
 Message communicating the documents sent to the Senate, 253; the resolution having been rejected, the President unasked has obtruded the documents upon the Senate, 253; the opposition to printing surprising, 253; the Executive has the right to make public his official acts, 253; is there any thing unusual in resisting the motion to print? 253; have we the power to arrest here a communication to the House? 254; public opinion is not to be forestalled, 254; the usual mode of proceeding is to refer the message and documents to the

Committee on Foreign Relations, 254; the Senator assumes the contents of the papers to be such as to render their publication improper, 255; these documents do not belong to you alone, 255; how does this course compare with that of the Senate, when the Panama mission was advised, 255; motion to print lost, 255.

Motion to transfer the Message and documents to the Executive Journal, 256; motion to refer to the Committee, *do.*, withdrawn, and substitute offered, 256; amendments, 257; transferred to Legislative Journal, 257; printing refused, 257.

*Panama Mission.*—*See Index*, vols. 8, 9.

*Patent Office, the.*—In the Senate, a bill providing for the further regulation of, considered, 541; amendment proposing to admit foreigners to the privilege, *do.*, 541; the fees proposed are too much, 541; better to raise the price to restrict them from issuing in such numbers, 541; two additional clerks unnecessary, 541; the great difficulty has been to so frame the laws as to prevent the issuing of patents to useless inventions, 543; no necessity of increasing the fees, 543; the provision respecting foreigners a very fair one, 543; regulations here nearly similar to those in Europe, 543; further debate, 544; bill laid on the table, 544.

PAULING, JOHN, the widow of.—In the House, a resolution to recommend the report on the memorial relative to, 374; facts of the case, 375; what is it the petitioners ask? 376; what has been done for the other actors of the drama? 376; resolution adopted, 377.

*Pay of Members.*—In the House, a bill relative to, considered, 538.

*Mileage.*—Bill provides for a computation of mileage, and a deduction for absence in cases of two post routes, how shall the mileage be determined? 538; one object of the bill is to throw from members the responsibility of fixing the amount of their mileage, 539; the responsibility should be thrown on him, and on him alone, 539; not see the utility of the bill, 539; neither the Postmaster-General nor the Sergeant-at-arms should estimate the mileage of members, 539; members from the same State and the same neighborhood had been in the habit of computing their mileage differently, 539; proposed to take from a member the privilege of fixing at his own will and pleasure the extent of his compensation, 539; if the facts stated in the report were true, it was important that some remedy should be provided, 539; you cannot place a barrier to human ingenuity or error, 539; bill reported, 539.

Various amendments agreed to, 539; an evil exists in the variant computation of mileage, 539; on principles of justice, this bill ought to pass in some shape, 539; why not pass it to-day? 539; no officer out of the House should regulate its peculiar and exclusive concerns, 539; incorrect estimate which the Post-office books give of distances, 539; the doctrine that members are too honorable to need accountability reprobated, 539; further amendments moved, 539; form of the bill, 539.

In the House, a resolution for a bill to reduce the pay of members after a certain number of days, 536; it would save a month's time, 536; other reasons, 536; only objection its unpopularity, 536; suggested to organize a corps to sustain the call for ayes and nays on the motion to adjourn, 536; details of the business of the House, 536; modifications suggested, 537; the great evil of the Government is the immense mass of legislation with which the people are afflicted, 537; two principles connected with this subject which must always enter into the character of every legislative body, 536; moderate salaries are consistent with the spirit and principles of our institutions, 538.

No voice of complaint raised by the people, 719; the

- reproach which the resolution conveys may be correct or not, 710; it is founded upon an assumed fact, the contrary of which is proved by experience, 711; it is not true that this House or any considerable portion of its members desire to remain here without performing any public service, 712; the principle implied is that the members of this body prolong its sessions from mercenary motives, 713; the adoption would be productive of more harm than good, 716; the original resolution, 716; the amendment, 716; grounds upon which they are urged examined, 716; a charge of a want of industry, 716; this Congress relieved from the imputation of any protraction of its sitting, 717; the charge of inertness from mercenary motives, 718; the compensation of members will be reduced, even if the session shall be extended to its ordinary length, to still an ample allowance, 719. *See Index*, vols. 5, 6.
- Payment of Interest to States.*—*See Index*, vol. 9.
- FRANCIS, DUTCH J., on visitors at West Point, 10; Representative from Rhode Island, 576.
- FRICK, JUDON, *Impeachment of.*—In the Senate, a message from the House announced, 546; the impeachment, 546; the precedents, 546; extract from the Senate Journal, 546; committee appointed, 547; report, 547; message from the House, 555; managers appointed, 555; resolutions of the Senate relative to, 555; articles of impeachment, 556, 557; further proceedings, 556, 557, 578.
- In the House, report on the memorial relative to, 559; debate on the motion to print, 559.
- Penal Code of the United States.*—*See Index*, vol. 3.
- Penitentiary in the District.*—*See Index*, vol. 3, 9.
- Pennsylvania Insurgents.*—*See Index*, vol. 1.
- Pennsylvania*, vote for President in 1833, 294. *See Index*, vols. 1, 2, 3, 4, 5, 6, 8.
- Pension Bill, Revolutionary.*—*See Index*, vol. 7.
- Pension Laws.*—In the Senate, the bill relative to, considered, 547; the mammoth pension bill of last session, 547; a mighty host, many of whom have never seen an enemy, 547; a brief review of the pension system of the country, 548; the principle of the system up to 1818, 548; number of applicants under that act, 549; is the Chairman of the Committee satisfied with the wisdom and justice of the act of 1818? 549; an examination of the character of the proposed measure, 549; what are the misconstructions which make a declaratory act now necessary? 550; this bill is not declaratory of the old law, but substitutes a new, 550; justice and policy of the act of 1818 denied, 551; what will be the effect of this bill? 551; it rests on no sound principle applicable to military pensions, 551; what is the proposition now before us relative to circumstances in life? 552; this bill a branch of a great system calculated to create and perpetuate a permanent change in the Treasury, 552; effect of payment of the national debt, 552; constant and persevering efforts to increase the public expenditure, 553; the liberal and most extraordinary provisions of this bill, 556; operation of the pension system, 554; direct taxation would be some security against extravagant expenditures, 554; further remarks, 555.
- Pensions to wounded Officers of the War of 1812.*—*See Index*, vol. 6.
- PRENT, COMMODORE.—*See Index*, vol. 9.
- PURVIS, FRANCIS, Representative from Missouri, 577; on distribution of the public lands, 592, 593.
- Petitions, reception of.*—*See Index*, vol. 2, and *Index*, vols. 1 and 6, *Glossary*.
- Philadelphia Frigate, capture of.*—*See Index*, vol. 2.
- PHEON, ISAAC, Representative from New Jersey, 576. *See Index*, vol. 9.
- Piracy in the West Indies.*—*See Index*, vol. 7, 8.
- POLK, JAMES K., on the claim of Meade, 49; on land claims in Tennessee, 181-181, 297, 337; on the occupation of the Oregon River, 279, 287; on the territory of Huron, 256; on rules of order, 401; Representative from Tennessee, 576; on refuse lands in Tennessee, 587; on distribution of the public lands, 594; on a drawback on cotton bagging, 677. *See Index*, vols. 8, 9.
- Pontchartrain Canal and Louisiana College.*—In the House, resolutions relative to, considered, 356; reasons for the presentation of the resolutions, 358; facts relative to the importance of the canal, 358; history of the College of Louisiana, and the reason why it did not participate in the grants of land made by Congress, 359; such an application of the public lands improper, 359.
- Portugal, commerce with.*—*See Index*, vol. 7.
- Post-Office.*—*See Index*, vol. 1.
- Post-Office Patronage.*—*See Index*, vol. 5.
- Postage of Newspapers.*—*See Index*, vol. 2.
- Postmaster-General, salary of.*—*See Index*, vols. 8, 9.
- Potomac River Bridge.*—*See Index*, vol. 2.
- POTTER, ROBERT, Representative from North Carolina, 576; on distribution of public lands, 605.
- POULTNEY, SIR WILLIAM, extract from the speech of, 290.
- POWERS, GERRISH, Representative from New York, 576.
- Pre-emption Rights.*—In the Senate, the bill to grant, considered 416; this bill will encourage the future violation of the laws which regulate our public land system, 416; intruders in possession of the best land will deter purchasers from bidding for them, 417; it allows the purchasers time which is not allowed others, 417; reasons for reporting the bill, 417; policy of the bill derived from the present operation of the public land system, 417; better to leave the public lands to a general scramble than to pass this bill, 418; bill postponed, 418. *See Index*, vol. 7.
- Presents to Ministers.*—*See Index*, vol. 2.
- Presidency, vacancy in.*—*See Index*, vol. 1.
- Presidential Election in the House.*—*See Index*, vol. 3.
- Previous Question.*—*See Index*, vol. 1, 4, 5.
- Private Losses in service.*—*See Index*, vol. 5.
- Privateers.*—*See Index*, vol. 4, 5.
- Protective Duties.*—*See Index*, vol. 1, and *Index*, vols. 5, 6.
- Duties on Imports.*
- Propagating the Gospel among the Heathen.*—*See Index*, vol. 7.
- Public Buildings.*—*See Index*, vol. 5, 7.
- Public Debt.*—*See Index*, vol. 9.
- Public Defaulters.*—*See Index*, vol. 7.
- Public Documents, suppression of.*—*See Index*, vol. 7.
- Public Documents, reprinting of.*—In the House, a resolution relative to, offered, 397; a useless and wasteful expenditure of public money contemplated, 398; estimated expenses, 398; cost of printing by Congress for the years embraced in the resolution, 398; contingent expenses of the House for the last seven years, 399; it is a mere question of expediency, involving no principle, 399; the question of expense incidental, 399; the cost of printing in past years affords no data, 400.
- Public Lands: Mr. Poole's resolution.*—In the Senate, a resolution offered to inquire into the expediency of suspending the sales of public lands, 418; note, 418; the policy which ought to be pursued in relation to the public lands, 419; two parties in the country who entertain very opposite opinions in relation to the character of the policy which the Government has heretofore pursued in relation to the public lands, as well as to that which ought hereafter to be pursued, 419; views of these parties on the past action of Congress, 419; one or two particulars, in relation to which the West has some occasion for complaint, 419; difference between our policy and that of other nations, 419; reason that other nations adopted their policy, 420; the best means of building up prosperous communities in the wilderness, 420.



What ought to be the future policy of the Government in relation to the public lands? 430; views of the two parties, 430; as a source of permanent revenue, 430; an immense national treasury will be a fund of corruption, 431; another scheme, that of distribution of the lands among the States, 431; what is our true policy on this subject? 431.

The whole course and policy of the Government on the public lands is spoken of as wrong, 431; nothing harsh or severe in the policy of the Government towards the new States of the West, 432; the analogy between other countries and ours is neither just, nor are the cases similar, 432; it is said we want no permanent sources of income, 433; when gentlemen speak of a common fund belonging to all the States as having a tendency to consolidation, what do they mean? 433; General Washington's consolidation, 433; the tendency of all these ideas and sentiments is obviously to bring the Union into discussion, as a mere question of present and temporary expediency, 433.

The Senator from Massachusetts tells us that the tariff is not an Eastern measure, and treats it as if the East had no interest in it, 434; he intimates that there is a party in the country who are looking to disunion, 434; the uniform, zealous, ardent and uncalculating devotion of South Carolina to the Union, 434; what was the conduct of the South during the Revolution? 434; the attempt to throw ridicule upon the idea that a State has any constitutional remedy by the exercise of its sovereign authority, against a deliberate violation of the constitution, 435; the good old Republican doctrine of '98, 435; Virginia resolutions, 435; Madison's report, extract, 435; action of Kentucky, 436; expression of Mr. Jefferson, 436; his letter to Mr. Giles, 436; these authorities in support of the Carolina doctrine, 437; the whole country once divided on this question, 437; remarks of Hillhouse on the embargo, 437; remarks of Webster on the embargo, 437; the Carolina doctrine is the Republican doctrine of '98, 437.

I am considered as having assailed South Carolina, 438; the reference to Massachusetts for a precedent, 438; the Hartford Convention, 438; he finds no fault with the recently promulgated opinions of South Carolina, 439; ancient harmony between South Carolina and Massachusetts, 439; no encomiums on Massachusetts, 439; the true principle of the constitution under which we are assembled, 439; the right of a State Legislature to interfere, &c., 439; the sum of the South Carolina doctrine, 439; what is the fair interpretation of the resolution to which Mr. Madison is understood to have given his sanction? 439; inquiry into the origin of this Government, and the source of its power, 431; what is the length and breadth of that doctrine denominated the Carolina doctrine? 431; it is held that every tariff designed to promote one branch of industry at the expense of another, is a dangerous, palpable, and deliberate usurpation of power, such as calls for State interference, 432; in Carolina the tariff is a palpable, deliberate usurpation, she may therefore nullify it, 433; at no time has New England or anybody in New England, put forth such a doctrine as this Carolina doctrine, 433; no case to be found in New England, 433; if this doctrine had been acted on in New England in the time of the embargo, we should not now probably have been here, 433; a remark on the Virginia resolutions of 1798, 434; whence is this supposed right of the States derived? 434; the people erected this Government, 434; the constitution and laws the supreme law of the land, 435; this power of State Legislature denied, 435; neither South Carolina nor any other State prescribe my constitutional duty, 435; the doctrine run into practical application, 434; direct collision is the result of that rem-

edy for the revision of unconstitutional laws, 436; it is said, if this Government is the sole judge of the extent of its own powers, it subverts State sovereignty, 437; if any thing be found in the national constitution which ought not to be in it, the people know how to get rid of it, 437; although there are fears, there are hopes, 437; reasons for dissent to the doctrines advanced, 437.

Complaint that the argument in relation to consolidation has been misunderstood, 438; the proposition laid down is taken from the Virginia resolutions of '98, 438; the very idea of a division of power by compact is destroyed by a right claimed and exercised by either to be the exclusive interpreter, 439; in every part of the constitution the people are always spoken of as citizens of the several States, 440; extract from Madison's report, 440; the constitution being a compact between sovereign and independent States, there can be no tribunal above their authority to decide in the last resort, 440; questions of sovereignty are not the proper object of judicial investigation, 440; if the Supreme Court assumes jurisdiction over questions between the individual States and the United States, it is acting entirely out of its sphere, 441; does Congress possess the right of deciding exclusively upon the extent of its own powers? 442; it is vain to tell us all the States are represented here, 443; right of the States before entering into the compact, 443; why not compel a State to appeal to her sister States, when objecting to the constitutionality of a law, by a proposition to amend the constitution? 443; it is said this will make the Union a rope of sand, 444; this doctrine recognized in the Virginia resolutions, 444; by Mr. Jefferson, 444; in the Kentucky resolutions, 444; it is said this right will be dangerous, 445; a State will be restrained by a sincere love of the Union, 445; if the alien and sedition laws had not been yielded, Virginia would have interposed to protect her citizens, 445; views of Mr. Madison, 446; called to carry out our scheme practically, 446; is the doctrine of passive obedience and non-resistance contended for? 447; an eloquent appeal in favor of the Union, 447.

The argument consists of two propositions and one inference, 447; if the main proposition is conceded, the inference is not warranted, 447; if conceded, the question would be, what provision is made to settle this disputed sovereignty? 448; if the constitution is a creature of the State Governments, it may be modified at their pleasure, 448; even if it was a contract, the gentleman's doctrine is not maintainable, 448; to say the constitution is a compact, is using language applicable to the old confederation, 448; the Government is one of checks and balances, 449; *note*, 449; a violation of the rule of propriety, 449; change of policy on the tariff and internal improvement disclaimed, 450; despotic power claimed for the Supreme Court, 450; a charge of Judge Story, 451; extract, 451; try the doctrine of judicial supremacy on the case of slavery, 451.

It was not the intention of the States in the formation of the constitution to invest that tribunal with the power of doing any political act, 452; authority of the judges, 453; all the purposes for which civil society was instituted would be defeated in the control of the States by the judiciary, 454; the unrestrained exercise of the sovereign power of the Union is necessary to all the purposes of the Union, 454; unfitness of the judges for the exercise of this controlling power over the sovereignty of the States, 454; is there more safety in that court than in the people? 455; would not the enlightened citizens be as much interested as those judges? 455; who ever before thought that one of the parties to a contract was a competent judge of the matter in dispute? 455; this power asserted for the court is unreasonable in other

views, 455; it may be asked, to what tribunal should be referred a question involving the sovereign power of a State? 456; if Congress refused to interfere, the State should appeal to its own sovereign power to protect her own citizens from lawless incarceration by the court, 456; it is in the power of Congress to refer the question to an infinitely more exalted tribunal than the Supreme Court, 457; the case stated, 457; Congress should appeal to the tribunal of the States, 457; an appeal by a State would be as unavailing as unwise, 458; throughout this debate the States have been treated as restless, querulous, impatient, disorganizing beings, 458; the greatest good, when perverted, becomes the greatest evil, 459; on this doctrine of the power of the court, what is to prevent a perfect consolidation of the Government and monarchy or despotism? 459; the argument has gone upon the prediction that the States are to be kept in order by coercion only, 459; every policy which has a tendency to humiliate the States should be deprecated, 460; every institution of man is purer at commencement than at any after period of its history, 460.

The constitution has vested the power here contended for in express terms, in the Supreme Court, 461; understanding of the word sovereignty, 461; if internal improvement is a *res judicata*, why not yield in this case also? 462.

One of the Virginia resolutions, 473; views of Mr. Jefferson, 478; who does not see cause of new and fearful apprehension to the States? 478; has it come to this, that one of the parties under the government cannot interpose and correct its ruinous tendencies? 478; those views were the views of the fathers of the democratic party, 474; from the fact of two parties in the Federal Government the agents of each must be allowed to decide on the extent of its provisions, 474; remarks of Mr. Jefferson, 475; the people will apply a most sovereign remedy, 475; no institution in this country is above just criticism and fair discussion in regard to its political views, 476; resolutions of New Hampshire on decisions of the court in 1821, 476; how the powers of the General Government have been gradually brought through one of its departments to bear on the States, 477.

Two great questions involved in this discussion, 477; the first a mere speculative political question, 478; the question of South Carolina is with her people, 478; in case of unjust oppression the last alternative remains, 479; writings of Dr. Cooper, 479; lectures of Mr. Dew, 479; men of business cannot remain devoted to a system that must produce their certain destruction, 479.

An examination of the powers of the Federal and State Governments, 480; who is to decide in cases of disagreement between them? 480; in every contest of power there would exist in the judiciary the same motives to lead it astray as exist in the other departments, &c., 481; if the opposition are right, the only security of the States is the integrity of the majority of seven men, 481; power of the court over the sovereign rights of States, 481; a State Legislature cannot nullify and make void an act of Congress, so far as to prevent its operation within its limits, 482, 483.

Any and every question growing out of any circumstances in which a State may conceive her sovereignty impugned is translated to her own tribunals by the same train of argument which induces the conclusion that she may nullify an act of the Federal Legislature, 486; extent of the jurisdiction of the Supreme Court, 487; some of the rights of independent sovereignty were ceded to provide for the general welfare, 487; no attempt will ever be made by a majority of the large States to destroy the Independence and legitimate powers of the smaller, 488; is there any other forum than this court, established with co-extensive or appellate

powers? 488; we have no other direct recourse in the cases we have been considering to save us from the horrors of anarchy than this court, 489.

The union and the happiness of the country depend on a true understanding of this subject, 491; none of the opinions, however much they differ, justify a violent opposition to an unconstitutional law, until an extreme case of suffering has occurred, 491; both of the positions on this subject, seemingly so contradictory, are true, and both false—true as respects one feature of the constitution, erroneous if applied to the whole, 493; distinction between a consolidated and federative government, 493; traces of both these features in the incipient state of our political existence, 493; two characteristics of government apparent in the Federal Constitution, 493; marks of another kind of union than a compact, 498; it is neither such a federative government, founded on compact, as leaves to all the parties their full sovereignty, nor such a consolidated popular government as deprives them of the whole of that sovereign power, 498; the States have given certain powers to the General Government and the right also of enforcing them, 498; the right contended for, a positive veto on the operations of the whole government, 494; when a law is once passed, it is made the duty of the President to execute it, 494; must the President yield to a small majority in the Legislature of a single State? 495; show the written authority, 495; it is asked, will you deny to the States every portion of their former sovereignty? 495; deductions from the Virginia resolutions, 495; views in the Federalist, 496; the court not created as an umpire between the Federal and State Governments, 497; the discontent in an important section of the Union, 497.

The right of a State to annul an act of Congress is one of deep import, 504; it is not derived from the constitution, 504; its effect, 504; checks and balances of the constitution, 504; we are told no such consequences as a dissolution of the Union will ensue, 505; it is extremely difficult to get any more than a bare majority for any measure, 505; the judiciary power under the provisions of the constitution, 506; a power granted to try all imaginable cases that can be described, 506; the question reduced to a narrow compass, 507; the great question solved by the convention, 507; jurisdiction of the court, 508; objections answered, 508; precedents, 508; debate on the Virginia resolutions in the Virginia Legislature, 509; nothing in them that looks to the right of a State to annul an act of Congress, 509; opinion of Jefferson, 510; letter of George Nicholas, 510; resolutions of Pennsylvania in 1809, 511.

**Public Lands Distribution.**—In the House, a resolution relative to distribution of the proceeds, 588; moved to strike out "for purposes of education," 588; protest against the number of propositions relative to the public lands, 588; what proportion has been given to the Atlantic States? 588; the West has had no donation of public land, 584; this subject agitated in every part of the Union, 584; the donations of land beneficially bestowed, 584; further debate on the proposition for inquiry, 584; resolution laid on the table, 585.

Motion to inquire into the amount and value of the public lands which have been given by Congress to any State, or to any public institution in said State, 592; the present an improper time to make the inquiry proposed, 592; excitement in the House on this subject, 593; object to inquire into the mode of disposing for the future of the proceeds of the public land sales, 598; a policy that would be wise for an individual would be wise for the Government, 594; the United States are bound by every principle to contribute something to the improvements in the new States, as they had a direct tendency to increase the value of the public lands, 594; this dis-

cession is premature, and not likely to arrive at any profitable end, 594; the only question for discussion is, whether the subject of the resolution is of sufficient importance to demand inquiry? 595; the report at the last session furnishes all the statistical information desired, 595; the constitutional power of Congress to make the proposed distribution among the States, 595; the present, the peculiar and the appropriate time for inquiry, 596; a substitute to the resolution, 596; the amendment looks forward to the general operation of the resolution, 596; an equitable division among the States proposed, 596; motive or consideration which induced Virginia to cede, 596; is the amendment calculated to promote this great and magnanimous object? 597; would the new States stand and look on and see you carrying away the fruits of their hard labor? 597.

The operation under the provisions of the amendment, 601; precipitancy, 601; never denied that Congress had a right to dispose of these lands according to the tenor of the compacts with the various States, 601; the resolution is merely for the purpose of inquiry, 602; any retrospect of donations to new States unjust, 602; the amendment proposed is a Pandora's box, 602; the surrender of the States never ought to be viewed as a donation, 602; a strong and inveterate disposition manifested to scramble for the public funds, 608; the amendment involves the rights and interests of the new States, 608; the measure is entirely premature, 608; the amendment much more objectionable, 604; grants for different purposes, 604; considerations on which made, 604; the claim of the old States to this distribution, 605; the resolution proposes nothing definite, nothing conclusive, 605; no disposition to demand a strict reckoning on this score from the people of the new States, 606; our duty in North Carolina to take back from the federal treasury every dollar we can lay our hand on, 606; a subject of great interest to the new States, 606; as a question of inquiry, it is of a character so decisive of the destiny of the new States, that it should be met on the threshold, 606; a requisition of sheer justice before any distribution, 606; previous to any sales, it was known that there were to be certain reservations for the purposes of education and internal improvement, 606; what has been the effect of the concession on the part of Alabama? 607; the proposition unjust and unequal to the new States, 607; whence does the proposition come? 607.

No cessions made by Rhode Island, 614; she stood in the first rank in the revolutionary contest, 614; these lands have been acquired by disbursements from the common funds of the nation, 614; neither the patriotism nor the efforts of the States is called in question, 614; proposal of the resolution, 614; amendments calculated to subvert and destroy this resolution, 614; the whole subject of the resolution, with the reasons for adopting it, are so many arguments for consideration in discussing the amendment, 615; the ceding States claimed that they relinquished claims, but never claimed or relinquished to the United States fee simple, 615; history of this subject, 615; sovereigns of Europe never claimed soil and freehold by right of discovery, 615; the London Company, 615; English and French colonies, 616; proclamation of king George in 1763, 616; the rights thus claimed and rules promulgated have never been questioned, 616; the Atlantic States freed the enemy in the struggle for existence, 617; the claim of France during that war, 617; exact political condition of the Western country, in relation not only to the colonies but to European powers, &c., 618; rights of the United States, 618; the purchase from Spain, 618; how purchased, 619; acquisition from France made also by common funds, 619; will the people of the old States quit claim to the people of the new? 620; the resolution, if adopted,

will mightily strengthen the Union, 620; further remarks, 620.

Opponents of the resolution not influenced by selfish motives, 621; gentlemen of all sorts of political opinions support this resolution, 621; how will you distinguish this money from other money, when paid into the national treasury? 622; conflicting opinions of the advocates of this resolution, 622; principles upon which this Government is founded, 622; the people of the States have a just ground of complaint that this Government is more rigid than any other in the world in regard to the disposition of these lands, 622; report of a committee in 1780, 622; action of Congress in 1780, 623; opinion of the old Congress on this question, 624; the cession of North Carolina, 624; is it equitable that this division should be made according to representation in this House? 624; if this plan is carried into execution, the people of the new States may forever bid adieu to the prospect of having the title of the United States extinguished, 624; if the desire is to ease the treasury, let the just claims upon the Government be paid, 625; this is an anti-emigration system, 625; resolution modified, 626.

*Public Lands, purchasers of.*—In the Senate, a bill for the relief of, considered, 500; amendment, 500; its difference from the law as it now stands, 500; in opposition to the whole policy of the bill, 500; the relinquished lands are placed on a better footing than those that have reverted, 501; desire to keep the actual cultivators of the soil from the grasp of speculators, 501; second section of the bill, 502; amendments of the House concurred in, 502; amendments considered, 623; other amendments, 623; bill passed, 622.

*Public Lands, graduation in the Price of.*—See *Index*, vols. 3, 2.

*Public Lands.*—See *Index*, vols. 1, 2, 3, 4, 7.

*Purses in the Navy, pay of.*—In the Senate, the bill regulating the duties and providing the compensation for, considered, 512; the present practice, 512; propositions of the bill, 512; the compensation proposed, 514; amendments proposed, 515; question on the third reading, 516; it proposes an entire change of compensation, 516; it will reduce the compensation one half, 516; the compensation allowed, 516; salary contemplated higher than is justified, 517; not the best way to effect reform by increasing salaries, 517; all admit the evils existing, 518; further debate, 518; bill passed, 518.

## Q

*Quakers, Memorial of.*—See *Index*, vols. 1, 2, 3.

*Quartermaster's Department.*—See *Index*, vol. 4.

## R

*Railroads, add to.*—In the House, a bill to admit iron and railway machinery free of duty, 187; motion to strike out the enacting clause, 187; caused by jealousy in Philadelphia at rapid prosperity of Baltimore, 187; ability of iron masters to furnish whatever railroads require, 187; only one third furnished by our factories, 188; offering a bounty on the importation of foreign iron, 188; no duty could materially benefit the iron masters in the interior, 188; bill ordered to be engrossed, 188.

*Ramsay, William*, on Cadets at West Point, 8; on the amendment of the Rules, 350; Representative from Pennsylvania, 576; on postponing the election of clerk, 578.

*Ransom, prohibition of.*—See *Index*, vol. 5.

*Randolph, James F.*, Representative from New Jersey, 576.

*Real Estate and Slaves, valuation of.*—See *Index*, vol. 5.

*Reed, Thomas H.*, decease of, 414.

**REED, JOHN**, Representative from Massachusetts, 576; on distribution of the public lands, 598; on Indian Affairs, 667. *See Index*, vols. 5, 7, 8, 9.

**Report on the assault on the President's Secretary**, 178.

**Representation, ratio of**.—*See Index*, vol. 1, 2, 4.

**Representatives, qualification of**.—*See Index*, vol. 6.

**Resignation**, does it cause a vacancy?—*See Index*, vol. 1.

**Resolution**, relative to militia courts-martial, 8; relative to cadets at West Point, 7; relative to the improvement of the Wabash River, 80; on decease of Major-General Brown, 54; relative to mounted volunteers, 77; on retrenchment, 89; on the adjournment of Congress, 119; on affairs with Brazil, 125; relative to the electoral votes, 166; relative to the assault on the President's Secretary, 198; on a vote of thanks to the Speaker, 197; relative to national paintings, 198; relative to the sinking fund, 215, 220; relative to the North Eastern Boundary, 232; relative to the Exploring Expedition, 240; on counting the electoral vote, 242; on calling for instructions given to Panama Ministers, 249; relative to documents relating to the Panama Mission, 256; on the decease of Hodge Thompson, 268; relative to the Cumberland road, 268; relative to internal improvements, 265; on slavery in the District of Columbia, 299; to amend the rules, 293; relative to the Pontchartrain Canal and Louisiana College, 338; on retrenchment, 346; of relief to the widow of John Paulding, 374; relative to counting the electoral vote, 384; to notify the President elect, 394; on reprinting public documents, 397; of thanks to the Speaker, 401; on decease of Thomas H. Reed, 414; on the decease of General Smyth, 535; on the impeachment of Judge Peck, 547, 556; on a western armory, 579; on refuse lands in Tennessee, 579; on the decease of Gabriel Holmes, 583; on distribution of the public lands, 583; on postage on periodicals, 585; on refuse lands in Tennessee, 587; relative to West Point Academy, 643; on cultivation of the sugar cane, 644; on West Point Academy, 669; on ardent spirits in the navy, 670; on retrenchment, 683; on the pay of members, 694.

**Retrenchment**.—In the House, a resolution relative to, reported, 89; the propriety of the power to send for persons and papers, 89; some reasons should be urged to show the importance of vesting it in a committee, 89; duties charged upon the committee, 89; resolution passed, 89; joint resolution reported, 134.

Committee had not time to prepare and report the bills and resolutions necessary to carry their recommendations into effect, 196; extract from the report of the minority, 196; further remarks, 197.

Resolution directing an examination of the accounts of Gales & Seston, considered, 198; only part of the account to be examined, 198.

In the House, a resolution relative to stationery offered, 268; intended to prevent the unwarrantable use or abuse of the privilege of members, 266; what evidence of the existence and extent of this abuse? 266; facts, 266; the subject matter is one we cannot regulate by public enactment, 267; motion to lay the resolution on the table lost, 267; object of supplying members with stationery, 268; is not a waste of public stationery to the amount of two or three thousand dollars worthy of attention? 268; intended to prohibit its application to matters not connected with the business of legislation, 268; would not its adoption make an appeal to the moral feelings of a succeeding Congress? 268; a great noise had been made on the subject of retrenchment, but after waiting so long what had the House received? 269; other bills are in progress and preparation, 269; better meet the question now, 269; the information has gone abroad for the benefit of the people, 270. *See Index*, vol. 2.

**Revenue Cutters**.—*See Index*, vol. 4.

**Revenue, collection of**.—*See Index*, vol. 5.

**Resolution, soldiers of the**.—In the House, a bill for the relief of, considered, 150; amendment moved relative to the ownership of property by the applicant, 150; the officers have no legal claim to any grant, or gratuity, 150; the officers have a valid claim, 150; case of Captain Dehart, 151; solemn engagements of the old confederation, 150; how were they executed? 151; this money withheld from claimants in violation of every principle of justice, 152; amount due captains of the army now, 152; can you escape paying this balance? 153; as it respects the Revolutionary officers, justice has slumbered a long time, 153; the decision of this House will settle the question, 153; amendment lost, 153; further debate, 154; bills reported, 154.

Amendments moved, 171; question on third reading, 171; carried, 171; bill passed, 172.

Bill important, and requires mature consideration, 248; bill for the relief of officers and soldiers explained, 248; names of some who did not belong to the regular army, 248; this an innovation, 248; their claim such as cannot in equity be resisted, 248; one of the most extraordinary bills ever before Congress, 248; one section gives a pension to a child of a soldier of the last war, 249.

**The Virginia Line**.—In the Senate, a bill for the relief of the Virginia State Line considered, 558; Virginia asks nothing of the liberality or bounty of the Government, 558; grounds upon which the bill rests, 558, 559; was a reservation made for these troops in the deed of cession? 560; obligation of the United States to yield land for the satisfaction of the warrants, whether in one place or another, 560; bill ordered to be engrossed, 561.

In the House, the report of the committee considered, 633; the bill, 633; amendments moved, 633; the present laws are of a most invidious character, 634; the amendments are calculated to extend the benefits of the pension system, 634; it is said, it will greatly increase the amount of the appropriations, 634; amendments offered and discussed, 635; bill ordered to be engrossed, 636; question on the passage of the bill, 636; a proper time to try the question of providing for the militia of the war as well as the regular soldiers, 636; motion to recommit, 636; merits of the militia, and their claims, 636; other amendments proposed, 637; the provisions of the bill as amended a partial one, 637; it provides for none but the continental line, 637; all or none, 638; some wish to get the funds of this Government distributed, and they care not for what, 638; amount of appropriations, 638. *See Index*, vols. 2, 3, 5, *Soldiers*.

**Resolution, surviving officers of**.—*See Index*, vol. 2.

**Revolutionary Pension System**.—*See Index*, vol. 2.

**Revolutionary Bounty Lands**.—*See Index*, vol. 3.

**Rhode Island, admission of**.—*See Index*, vol. 1.

**Rhode Island, vote for President in 1823**, 384. *See Index*, vols. 2, 3, 4, 5, 6, 8.

**RICHARDSON, JOSEPH**, on the occupation of the Oregon River, 284, 318; Representative from Massachusetts, 576. *See Index*, vol. 9.

**RIPLEY, JAMES W.**, Representative from Maine, 576. *See Index*, vol. 9.

**Road from Detroit to Chicago**. *Do.*, *Pensacola to St. Augustine*. *Do.*, *from Georgia to New Orleans*.—*See Index*, vol. 3. *Do.*, *in Arkansas*.—*See Index*, vol. 2.

**Road in States or Territories, difference between**.—*See Index*, vol. 2.

**Roads and Canals, surveys for**.—*See Index*, vol. 7.

**Roads, Post**.—*See Index*, vols. 3, 7.

**Roads, Post, repair of, in Mississippi**.—*See Index*, vol. 3.

**ROARK, JOHN**, Representative from Virginia, 576.—*See Index*, vol. 5.

ROBBINS, ASHER, Senator from Rhode Island, 404. *See Index*, vols. 8, 9.

ROSS, ROBERT S., Representative from New York, 576.

ROWAN, JOHN, on the Louisville & Portland Canal, 286; Senator from Kentucky, 404; on Foot's resolution on the public lands, 453; on the office of Attorney-General, 502, 530; on the patent office, 542, 544. *See Index*, vols. 8, 9.

*Rules of Order.*—In the House, a discussion on a motion for reconsideration, 143; practice of the House, 144; the rules, 144; amendments moved, 144.

A resolution declaring that all elections by the House shall be *etwa voca*, offered, 338; reasons for desiring a change of practice, 339; what are the objections to the proposed change? 339; it would lead to great inconvenience, and to great and useless sacrifice of time, 339; objection to altering the standing rules on every slight occasion, 339.

A Representative ought always to vote *etwa voca*, 350; occasion no delay, 350; practice of Pennsylvania, 350; let the vote be *etwa voca*, and put on record, that the constituent may know, 350; is there any reason why the present mode of election is not a good one, and why the mode proposed would be better? 350; we are makers of the laws by which our constituents are bound, and it is proper they should know how each man votes on every law, but this principle does not apply to our acts when merely appointing an instrument to facilitate the discharge of our duty, 351.

Resolution of thanks to the Speaker offered, 401; do the ordinary rules of order apply to the last day of the session? 401; resolution not in order, 401; universal practice has decided that such a resolution may be received on the last day, 401; appeal to the House, 401; further debate, 402; decision of the Chair sustained, 402. *See Index*, vol. 9.

RUEH, RICHARD, extract from his report as Secretary of the Treasury, 307; *Notes*, 307; votes for as Vice President in 1838, 304.

RUEGLER, BENJAMIN, Senator from Ohio, 404. *See Index*, vols. 8, 9.

RUMELL, WILLIAM, Representative from Ohio, 577. *See Index*, vol. 9.

*Russian Treaty in the Northwest, contraventions of.*—In the House, a bill to punish, considered, 141; object and necessity of the bill, 141; have not power there to carry the law into effect if passed, 141; this does not remove the obligation to pass it, 141; proper that the House should legislate on the subject, 142; stipulation of the treaty, 142; complaints of Russia, 142; how will the passage of this act fulfil our treaty? 142; amendment offered, 142; practice of the United States relative to offences committed in the Indian country, 142; competent to punish any offence of any of its citizens, 142; amendment offered and rejected, 142; bill ordered to a third reading, 142.

## S

*Salt Duty and Fishing Bounty.*—*See Index*, vol. 5, *Duties on Imports*.

SANFORD, NATHAN, on the sinking fund, 229; Senator from New York, 404; on a military peace establishment, 415. *See Index*, vols. 5, 6, 8.

*Savannah, relief of.*—*See Index*, vol. 2.

*School Lands.*—In the Senate, a bill to relinquish certain lands in Mississippi for schools, &c., considered, 283; explanation of the bill, 283; the old States made a demand for similar grants, 289; never viewed by the new States as a donation, 289; new States greatly prejudiced by

compacts, 289; the doctrine of a transference of sovereignty questioned, 289; these compacts respecting lands not invalid, 289; bill laid on the table, 240.

SCOTT, JOHN, Representative from Pennsylvania, 576; on the pay of members, 712.

*Seamen, protection of.*—*See Index*, vols. 2, 4.

*Seamen, foreign merchant.*—*See Index*, vol. 6.

*Seat of Government.*—*See Index*, vols. 1, 2, 3, 5.

*Secret Proceedings, publication of.*—*See Index*, vol. 4.

*Sedition Law of 1798.*—*See Index*, vols. 4, 6, 9, and *Index* vol. 2, *Defensive Measures and Seditious Practices*.

*Seminole War.*—*See Index*, vol. 6.

SEMMES, BENEDICT L., Representative from Maryland, 576.

*Senate*, adjourns at close of second session of 20th Congress, 254; convenes at first session of 21st Congress, 404; adjourns at close of first session of 21st Congress, 575.

SERGEANT, JOHN, on naval appropriations, 6; on the mint of the United States, 145; on relief to railroads, 187; on retrenchment, 196; on the drawback on refined sugar, 273; on lotteries at Washington, 333. *See Index*, vols. 5, 6, 7, 8.

SEVIER, A. H., Delegate from Arkansas, 577; on a western armory, 530.

SETMORE, HORATIO, Senator from Vermont, 404. *See Index*, vols. 7, 8, 9.

SHEPHERD, AUGUSTINE H., Representative from North Carolina, 576; on compensation of members, 591; on relief to widows, &c., of officers of the Hornet, 663; on the Buffalo and New Orleans road, 712. *See Index*, vol. 9.

SHEPARD, WILLIAM, on Indian appropriations, 139; Representative from North Carolina, 576.

SHIELDS, JAMES, Representative from Ohio, 577.

SILL, THOMAS H., Representative from Pennsylvania, 576. *See Index*, vol. 9.

SILSBEE, NATHANIEL, on the drawback on merchandise, 210; on the drawback on sugar, 211; Senator from Massachusetts, 404; on Massachusetts claims, 418, 584.

*Sinking Fund.*—In the Senate, resolutions relative to, considered, 215; the first relates to the fifth section of the sinking fund act, 215; portions of the debt should be purchased sooner than allow the money to remain idle, 216; object of the second resolution, 216; third resolution relating to the propriety of compensation by the United States Bank for the use of the balances of the public money, 216; equity of the proposition, 217; balances in the bank of England, 217; the other resolutions explained, 218, 219; motion to refer the first to the committee on finance, 220; resolutions laid on the table, 221.

Motion to refer the whole subject to the finance committee, 222; all except the three per cent. debt may be discharged in three or four years by adopting the resolution, 222; objection to sending the resolutions to the finance committee, 223; further debate on the resolutions, 224, 225, 226; report on, 246.

*Slave Trade, African.*—*See Index*, vols. 2, 6, 7.

*Slave Trade, suppression of.*—*See Index*, vols. 2, 7, 9.

*Slave Trade*, a bill relative to the African Agency passed, 168.

*Slavery, resolutions relative to, in new States.*—*See Index*, vols. 8, 6, and *Index*, vol. 2, *Territories*.

*Slavery in the District of Columbia.*—In the House, a series of resolutions relative to, considered, 299; the allegations of the preamble shown to be well founded, 306; those who suffer evils which they alone have the power to prevent, are alone accountable for those evils, 307; the extreme sensitiveness supposed to exist whenever slavery is mentioned ought not to prevail, 307; allegations of the preamble, 307; another case of hardship, 308; the district is full of complaints, 309; other cases, 309; this traffic, and the views it exhibits, are as offensive to the people of the district as they are unjust in

- themselves, 810; an advertisement from the public prints, 810; the subject considered in a more enlarged and national view, 810; farther remarks, 814; vote on the resolutions, 814.
- Slavery in the District of Columbia.*—See *Index*, vols. 5, 9.
- Slavery, Negro, in South America.*—See *Index*, vol. 8.
- Slaves, action of Indiana.*—See *Index*, vol. 8, *Ordinance*.
- Slaves, Deported.*—See *Index*, vols. 6, 9. *Do.*, *Fugitives.*—See *Index*, vols. 5, 6, 7. *Do.*, *Importation of.*—See *Index*, vol. 6, and *Index*, vol. 8, *Duties on Imports*. *Do.*, *Indemnity for.*—See *Index*, vol. 6. *Do.*, *Migration of.*—See *Index*, vol. 6. *Do.*, *Petitions.*—See *Index*, vols. 1, 8, 4, 5.
- Slaves, coast transportation of.*—See *Index*, vol. 9.
- Sloops of War.*—See *Index*, vol. 7.
- Small Armed Vessels.*—See *Index*, vol. 5.
- SMITH, JOHN, the case of.—See *Index*, vol. 8.
- SMITH, OLIVER H., on emigration of Indians, 19; on the Cumberland road in Indiana, 258, 379. See *Index*, vol. 9.
- SMITH, SAMUEL, President *pro tem.* of the Senate, 200; on the drawback on merchandise, 209; on the sinking fund, 220, 224; on the distribution of the revenue, 228; Senator from Maryland, 404; on interest due to certain States, 414; on a military peace establishment, 415, 416; on the marine service, 438; on the mounted infantry bill, 500; on pay of pursers in the Navy, 518; on the Baltimore and Ohio road, 570. See *Index*, vols. 2, 3, 4, 5, 6, 7, 8, 9.
- SMITH, SAMUEL A., Representative from Pennsylvania, 576.
- SMITH, WILLIAM, on the claim of Maison Rouge, 230, 231, 234; on the protest of South Carolina, 243; on revolutionary pensions, 248; votes for as Vice President in 1823, 394; Senator from South Carolina, 404; on Foot's resolution on the public lands, 477. See *Index*, vols. 5, 6, 7, 9.
- SMYTH, ALEXANDER, on the office of Major-General, 173; decease of, 535. See *Index*, vols. 6, 7, 8, 9.
- SMYTH, ALEXANDER, Representative from Virginia, 576.
- Soldiers of the Revolution.*—See *Index*, vols. 3, 6.
- South American States.*—See *Index*, vols. 6, 7.
- South Carolina Protest.*—In the Senate, a protest of the State of South Carolina against the tariff of 1823, presented, 242; views of South Carolina, 243; patriotic conduct of South Carolina, 244; remonstrances of South Carolina, 244; difficulty to the Southern States, of causing their sentiments and feelings to be made known, so as to be understood and appreciated, 245; view of the late Legislature, 245; protest ordered to be printed, 245.
- South Carolina*, vote for President in 1823, 394. See *Index*, vols. 1, 2, 8, 4, 5, 6, 8.
- South Carolina, the claim of.*—See *Index*, vol. 9.
- Spain, ratification of the Treaty of 1819.*—See *Index*, vol. 7.
- Specte Payments.*—See *Index*, vol. 5.
- Specie, transportation of, in public armed vessels.*—See *Index*, vol. 7.
- SPEIGHT, JESSE, Representative from North Carolina, 576; on mileage of members, 599; on relief to widows, &c., of officers, &c., of the Hornet, 633.
- SPENCER, AMBROSE, Representative from New York, 576; on distribution of the public lands, 602; on cultivation of the sugar cane, 646.
- SPENCER, RICHARD, Representative from Maryland, 576; on Southern Indians, 608.
- SPRAGUE, PILEO, on emigration of Indians, 16; on the tariff bill, 90, 92; on the case of Wilde, 125; on the drawback on refined sugar, 264; Senator from Maine, 404; on a Surgeon-General in the Navy, 523. See *Index*, vols. 8, 9.
- SPRING, MICHAEL C., Representative from Maryland, 576. See *Index*, vol. 2.
- STANBERRY, WILLIAM, on the Ohio Canal land grant, 189; on the Ohio Canal, 191; Representative from Ohio, 577; on the pay of members, 712. See *Index*, vol. 9.
- STANDIFER, JAMES, Representative from Tennessee, 576.
- State Balances.*—See *Index*, vol. 2.
- St. Domingo.*—See *Index*, vols. 2, 7.
- STERIGER, JOHN B., Representative from Pennsylvania, 576; on compensation of members, 589; on Indian affairs, 663. See *Index*, vol. 9.
- STEPHENS, PHILANDER, Representative from Pennsylvania, 576.
- STEVENSON, ANDREW, on the case of William Morgan, 169; address on a vote of thanks, 199; on drawback on refined sugar, 262; address in reply to the vote of thanks, 403; Representative from Virginia, 576; chosen Speaker, 577; address, 577. See *Index*, vols. 8, 9.
- STEVENSON, JAMES S., on the drawback on refined sugar, 262. See *Index*, vols. 8, 9.
- STEWART, ANDREW, on the Chesapeake and Ohio Canal, 159; on relief to railroads, 183; on the Cumberland road, 377. See *Index*, vol. 9.
- Stock, five millions new.*—See *Index*, vol. 8.
- STORRS, HENRY R., on naval appropriations, 5; on retrenchment, 59, 367; on the case of William Morgan, 169; on the drawback on refined sugar, 262, 263; Representative from New York, 576; on a Committee on Education, 581; on Southern Indians, 612; on relief to widows, &c., of officers of Hornet, 662; on Indian affairs, 668. See *Index*, vols. 6, 7, 8, 9.
- STORRS, WILLIAM L., Representative from Connecticut, 576.
- STRONG, JAMES, on retrenchment, 89; on land claims in Tennessee, 181; on the boundary lines of Ohio and Indiana, 185; on the occupation of the Oregon River, 287; on the territory of Huron, 357; on the Cumberland road, 360; Representative from New York, 576; on compensation of members, 539; on the judiciary, 635. See *Index*, vol. 9.
- Stability of States.*—See *Index*, vol. 2.
- Sufferers at Alexandria, relief of the.*—See *Index*, vol. 9.
- Sufferers in War.*—See *Index*, vol. 6.
- Sugar, drawback on refined.*—See *Duties on Imports*, vol. 10.
- Sugar Cane.*—In the House, resolutions relative to, offered, 646; why is this article thus singled out for the special favor of Congress? 646; one of daily use, and almost universal consumption, 646; depressed state of the cotton market adds interest to this subject, 646; details, 647; three kinds in the United States, 647; resolution agreed to, 647.
- Sunday Mail.*—In the Senate, report of the committee, considered, 232; motion to print, 232; legislation on the subject improper, 232; not right to order a large number of copies until they know what the report is, 232; these petitions but an entering wedge to make this Government a religious instead of a social and political institution, 232; legislation not improper on this subject, 232; motives of petitioners doubtless pure, 232; committee discharged, &c., 232. See *Index*, vols. 5, 7.
- Supreme Court.*—In the Senate, a bill to authorize any four judges to adjourn from day to day for twenty days, considered, and passed, 233.
- Surgeon-General of the Navy.*—In the Senate, a bill creating the office of, considered, 523; amendment relative to the Navy, 523; object to introduce a system of temperance in the Navy, 528; if the sailor is to receive money for his grog, it will not remedy the evil, 523; motion to include midshipmen, 523; this law will establish an unnecessary office, 523; experience of the army favorable, 529; save great expense in the medical department of the Navy, 529; bill ordered to be engrossed, 529.
- SUTHERLAND, JOEL B., on the tariff bill, 90; Representative from Pennsylvania, 576.

SWANN, SAMUEL, Representative from New Jersey, 576.  
*Sweden, commercial intercourse with.*—See *Index*, vol. 2.  
 SWIFT, BENJAMIN, Representative from Vermont, 576. See *Index*, vol. 2.

## T

*Toubaya Mission.*—See *Index*, vol. 2.  
 TALLAFERRO, JOHN, on the duration of the rules of order, 401; Representative from Virginia, 576. See *Index*, vol. 2, 4, 8, 9.  
*Tarif Bill, the*, 96.  
*Texas, direct.*—See *Index*, vols. 2, 5, 6. *Do., War.*—See *Index*, vol. 6.  
 TAYLOR, JOHN W., on militia courts-martial, 4; on naval appropriations, 5; on contraventions of Russian treaty, 143; on the drawback on refined sugar, 368; on the occupation of the Columbia River, 805; Representative from New York, 576; on distribution of the public lands, 584; on compensation of members, 590; on mileage of members, 593. See *Index*, vols. 5, 6, 7, 9.  
 TAKEWELL, L. W., on the drawback on sugar, 314; on instructions to Panama Ministers, 349, 351, 352; on the Chesapeake and Ohio Canal, 346; Senator from Virginia, 404; on pay of pursers in the Navy, 517; on the impeachment of Judge Peck, 546. See *Index*, vols. 8, 9.  
*Tennessee, admission of.*—See *Index*, vol. 1.  
*Tennessee, vote for President in 1833*, 394. See *Index*, vols. 2, 3, 4, 5, 6, 8.  
*Tennessee, land claims in.*—In the House, a bill considered relative to authorizing the State of Tennessee to issue grants for certain lands, &c., 121; the grant is to supply a deficiency which exists in the school lands of the State, 121; a review of the prominent acts of legislation which have taken place on this subject, 123; details of the present state of the lands, 123.  
 Quantity of land greater than many suppose, 123; principle and policy of the bill objectionable, 126; the State has a legal claim upon the General Government for 490,000 acres of land, 129; agreement with Tennessee, 129; the country east of Tennessee River, 129; purpose for which this relinquishment is sought, 130; statement of facts, 130; the Act of Congress, 130; the United States are not under any obligation to cede a foot of school land to the State of Tennessee, 131; North Carolina has never released the United States from liability to satisfy her warrants, 131; evidence of the obligation of the General Government to make provision for the support of common schools in Tennessee, 131; the bounties promised by North Carolina, 133; further debate, 133, 134; bill laid on the table, 135.  
 Reasons for not obeying instructions of the Legislature, 295; grants of fractions of land could never operate as a precedent, 296; reasons for the amendment, 296; a preference of entry provided for the occupants on the relinquishment, 297; gentlemen from Tennessee disagree as to this grant, 297; the quantity of land proposed to be given, 298; lands in the State have never been surveyed, 299; further debate, 298; adjournment, 299.  
 The two propositions compared, 315; objections to the substitute, 316; is Congress ready not only to refuse the application of a State, but to go farther and employ the officers of that State to do something directly at war with her application? 316; the amendment makes no disposition of the remainder of the lands, 316; the passage of that amendment would do direct injury to the persons it was intended to benefit, 317; a very important condition attached to the act of cession, 318; further debate, 319; the bill is advocated as a measure of justice, 320; assertion on which the whole measure

rests, 320; a mistake that Tennessee had received less of the public land than Ohio, 320; amount received, 320; statements and opinions of those who favor the amendment, 323; the right of Tennessee to the surplus lands within its limits, 323; grounds upon which the State founds her claim, 323; the burdens imposed on Tennessee, and her inducements to encounter them, 323; cost the United States five thousand per annum to appropriate these lands, 324; if the land is so indifferent, why do you show such solicitude to get it? 325; to what purpose will you convert it? 325; this amendment is at war with the principles of equality, which ought always to be observed in legislation, 326; further debate, 326, 327.

*Tennessee, refuse lands in.*—In the House, a resolution to inquire into the most expeditious manner of disposing of, 579; debate on reference to a select committee, 579.

*Territorial Government.*—See *Index*, vol. 4.

*Territories.*—See *Index*, vols. 1, 2, 3, 4, 6.

TEST, JOHN, Representative from Indiana, 577; on distribution of the public lands, 596, 601; on relief to widows, &c., of officers of Hornet, 659, 664.

THOMPSON, HEDGE, deceased of, 258. See *Index*, vol. 2.

THOMPSON, WILEY, Representative from Georgia, 576; on Southern Indiana, 608-611. See *Index*, vols. 7, 8, 9.

THOMSON, JOHN, Representative from Ohio, 577.

*Title of President.*—See *Index*, vol. 1.

*Torpedo Experiment.*—See *Index*, vol. 7.

TRACT, PHINEAS L., offers memorial relative to William Morgan, 168; on the case of William Morgan, 169; Representative from New York, 576. See *Index*, vol. 2.

*Treason and Sedition defined.*—See *Index*, vol. 2.

*Treason, punishment of.*—See *Index*, vol. 5.

*Treasury.*—See *Index*, vols. 1, 6.

*Treasury Notes.*—See *Index*, vol. 5.

*Treasury, Annual Report.*—In the House, a motion to print, 589; question as to the number of copies, 590; importance of the document, 590; retrenchment ought not to begin with the communication of information, 590.

*Treaty, New Creek.*—See *Index*, vol. 9, and *Index*, vol. 8, *Creek Indian Negotiation.*

*Treaty of Ghent, commissioner under.*—See *Index*, vol. 8.

*Treaty with Great Britain.*—See *Index*, vol. 1.

*Treaty with Spain.*—See *Index*, vol. 6.

TREZVANT, JAMES, Representative from Virginia, 576. See *Index*, vols. 8, 9.

TROUP, GEORGE M., Senator from Georgia, 404. See *Index*, vol. 2.

TUCKER, EBENEZER, on Revolutionary soldiers, 151. See *Index*, vol. 2.

TUCKER, STERLING, on the decease of Hedge Thompson, 258; Representative from South Carolina, 576. See *Index*, vol. 2.

TURNER, DANIEL, on the tariff bill, 114. See *Index*, vol. 2.

*Two-thirds Vote.*—See *Index*, vol. 4.

TYLER, JOHN, Senator from Virginia, 404; on the decease of General Smyth, 585; on the Virginia line of officers, &c., 558; on the Maysville & Lexington road, 567. See *Index*, vols. 7, 9.

## U

*Union, Dissolution of.*—See *Index*, vol. 4.

*United States and Georgia.*—See *Index*, vol. 9.

*Unsettled Balances.*—See *Index*, vol. 5.

## V

*Vaccination.*—See *Index*, vol. 7.

VANCE, JOSEPH, on cadets at West Point, 8; on visitors at

West Point, 9; on the decease of General Brown, 78; on the office of Major-General, 172, 173; on the Ohio Canal, 192; on retrenchment, 309; Representative from Ohio, 577; on a Western armory, 590, 595; on distribution of the public lands, 584. *See Index*, vols. 7, 8, 9.

**VARNUM, JOHN**, Representative from Massachusetts, 576. *See Index*, vols. 8, 9.

*Vermont*, vote for President in 1828, 394. *See Index*, vols. 2, 3, 4, 5, 6, 8.

**VERPLANCE, JULIAN C.**, on the mint of the United States, 145; Representative from New York, 576; on postage on periodicals, 585; on diplomatic expenses, 643. *See Index*, vols. 8, 9.

*Vessels, registering and clearing.*—*See Index*, vol. 1.

*Veto of the Washington Turnpike Road*, 574.

*Vice and Rear Admirals.*—*See Index*, vol. 5.

*Vice President's Appeal.*—*See Index*, vol. 9.

*Vice President, powers of the.*—*See Index*, vol. 2.

**VINTON, SAMUEL F.**, on emigration of the Indians, 31; on land claims in Tennessee, 181; on the Ohio Canal, 192; Representative from Ohio, 577. *See Index*, vols. 7, 8, 9.

*Virginia Land Warrants.*—*See Index*, vol. 7.

*Virginia Line, the, in the Revolutionary Army*, 558.

*Virginia Military Lands.*—*See Index*, vols. 4, 5.

*Virginia*, vote for President in 1828, 394. *See Index*, vols. 1, 2, 3, 4, 5, 6, 8.

*Vote of Approval.*—*See Index*, vol. 4.

## W

*Wabash and Miami Canal.*—*See Index*, vol. 8.

*Wabash River.*—In the House, a resolution to inquire into the expediency of improving, considered, 30; state of the river navigation, 30; obstructions, 30; importance to the West, 31.

*War, Conduct of the.*—*See Index*, vol. 5.

*War, Declaration of, in 1812.*—*See Index*, vol. 4.

**WARD, AARON**, on relief to the widow of John Paulding, 574. *See Index*, vol. 9.

**WASHINGTON, GEORGE C.**, Representative from Maryland, 576.

**WASHINGTON, Equestrian Portrait of.**—*See Index*, vol. 6.

*Do., Monument.*—*See Index*, vols. 5, 6, 7.

*Washington City, capture of.*—*See Index*, vol. 5.

**WAYNE, JAMES M.**, Representative from Georgia, 576; on Southern Indiana, 611; on the pay of members, 715.

**WEBSTER, DANIEL**, on the Supreme Court, 233-238; on the Chesapeake and Ohio Canal, 247; on instructions to Panama Ministers, 249-251; Senator from Massachusetts, 404; on Foot's resolution on public lands, 431-433, 447; on the office of Attorney-General, 503, 533; on the Baltimore and Ohio Road, 571. *See Index*, vols. 5, 7, 9.

**WEBER, JOHN W.**, Representative from New Hampshire, 576.

**WEBER, JOHN C.**, on cadets at West Point, 8; on visitors at West Point, 10; on the assault on the President's Secretary, 195; on the drawback on refined sugar, 367; on the occupation of the Oregon River, 290; on land claims in Tennessee, 293. *See Index*, vol. 9.

*Western Armory.*—In the House, a resolution relative to, 579; various amendments proposed relative to the field of inquiry, 599; the attempt has been made for the last fifteen years to procure the establishment of an army at the West, 580.

Question of instructions to the Committee of Inquiry, 585; impropriety of imposing restrictions, 585; the further examination of sites can only tend to procrastination, 596; the claims of the country west of the Mississippi, 596; the inquiry should be free from restric-

tions, owing to the improvements in the Western country, 596; original proposition carried, 587. *See Index*, vols. 7, 9.

*West Point Academy.*—In the House, a resolution relative to, considered, 643; the resolution, 643; reports of the War Department contain nearly all that is sought for, 643; previous drafts on the department, 643; reasons for offering the resolution, 643; it will show the patronage of the institution is bestowed upon those least in need of it, 644; amendments offered, 644; rejected, 645; resolution referred to the Committee on Military Affairs, 646.

In the House, resolutions relative to, offered, 669; the institution is kept up for the education of the sons of the noble, 669; not proper thus to expend the money of the Government, 669; this academy does not suit the people of our country, 669; further remarks, 670. *See Index*, vol. 7.

*West Point Cadets.*—In the House, a resolution calling for a list of, considered, 7; information already before the House, 7; the Secretary at War will furnish it on application, 8; does Executive patronage grow out of the management of this institution? 8; further debate, 8. *See Index*, vol. 6.

*West Point Visitors.*—In the House, a motion to appropriate \$1,500 to defray the expense of the Board of Visitors, 8; this Board useless, 8; the allowance made to the visitors, 8; report of the late Board, 9; reports prepared for the visitors beforehand, and all they have to do is to sign, 9; false in point of fact, 9; cause of the change, 9; history of the institution, 9; advantages of this visitation, 9; wrong to leave any great public seminary without supervision or control, 9; progress of the institution, 10; necessity of visitation, 10; manner in which reports were prepared, 10; the Seminary has not grown up by mere military legislation, 10; the pride, pomp, and circumstance which attend their visitation, objectionable, 10; poor and meritorious students excluded, 10; instances to the contrary stated, 10; motion to insert \$3,000 lost, 10; \$1,500 carried in committee, 11.

Amendment explained, 11; no reason why the traveling expenses of these visitors should not be paid, 11; their duties, 11; authority for appointing the Board, 11; importance of this Board, 12; its organization necessary, 12; proceedings of this Board, 12, 13; amendment lost, 13; moved to strike out the whole item, 13; an abuse that has not the sanction of legislative enactment, 13; motion lost, 13. *See Index*, vol. 2.

*Western Rivers, navigation of.*—*See Index*, vol. 8.

**WHELFLE, THOMAS, JR.**, on naval appropriations, 6. *See Index*, vol. 9.

**WHITE, CAMPBELL P.**, Representative from New York, 576.

**WHITE, EDWARD D.**, Representative from Louisiana, 577; on cultivation of the sugar cane, 646.

**WHITE, HUGH L.**, Senator from Tennessee, 404; on Indian agencies, 452. *See Index*, vols. 8, 9.

**WHITE, JOSEPH M.**, on visitors at West Point, 11; on emigration of Indians, 16, 43; on land claims in Florida, 133; Delegate from Florida, 577. *See Index*, vols. 8, 9.

*Whites, their intrusion on Indian Reservations.*—*See Index*, vol. 8.

*Whitney's Patent Right.*—*See Index*, vol. 4.

**WHITTLERY, ELMER**, on the Chesapeake and Ohio Canal, 161; Representative from Ohio, 577; on printing the Treasury Report, 590; on the pay of members, 694. *See Index*, vols. 7, 8.

**WICKLIFFE, CHARLES A.**, on visitors at West Point, 8; on the decease of General Brown, 78; on the tariff bill, 90-93; on the Chesapeake and Ohio Canal, 154; on retrenchment, 186, 366, 368; on the extension of time for drawback, 353; on the amendment of the rules, 333; on re-



- printing public documents, 397; Representative from Kentucky, 576; on compensation of members, 598, 599; on ardent spirits in the Navy, 671; on the judiciary, 673. *See Index*, vols. 7, 8, 9.
- Widows and Orphans, pension to.*—*See Index*, vol. 6.
- WILDE, RICHARD, on the electoral votes, 166; on the drawback on refined sugar, 273; on Georgia claims, 330; on retranchment, 366; Representative from Georgia, 576; on distribution of the public lands, 585; on Southern Indians, 608; on Indian Affairs, 668.
- WILDE, RICHARD H., *case of.*—In the House, a bill to authorize the cancelling of a bond, considered, 124; amendment moved and lost, 124; bill ordered to a third reading, 124; practical effect of the bill is to add thirty-nine more to the number of slaves in the country, 124; will these Africans be slaves by law, supposing the present bill should not pass; and is there any immediate necessity for the decision? 124; bill passed, 125.
- WILLEY, CALVIN, Senator from Connecticut, 404. *See Index*, vols. 8, 9.
- WILLIAMS, LEWIS, on the Ohio Canal, 198; Representative from North Carolina, 576; on Revolutionary pensions, 668. *See Index*, vols. 5, 6, 7, 8, 9.
- WILSON, EPHRAIM K., Representative from Maryland, 576. *See Index*, vol. 9.
- WING, AUSTIN E., on the territory of Huron, 353. *See Index*, vol. 9.
- WINGATE, JOSEPH F., Representative from Maine, 576.
- Witnesses, payment of, in Impeachment Cases.*—*See Index*, vol. 8.
- WOOD, SILAS, on the case of Meade, 71; on Indian appropriations, 188; on the drawback on refined sugar, 267; on the occupation of the Oregon River, 374; on the Cumberland road, 362. *See Index*, vols. 6, 7, 8, 9.
- WOODBURY, LEVI, on the commerce of the West, 309; on the drawback on sugar, 211, 214; Senator from New Hampshire, 404; on Foot's resolution on the public lands, 473. *See Index*, vols. 8, 9.
- WOODCOCK, DAVID, on the tariff bill, 92; on the case of Wilde, 124. *See Index*, vol. 9.
- WOODS, JOHN, on emigration of Indians, 18-23; on the tariff bill, 93; on land claims in Tennessee, 320-326. *See Index*, vols. 8, 9.
- WRIGHT, JOHN C., on the duty on wool and woollens, 61; on the tariff bill, 91; on the adjournment, 120; on the case of William Morgan, 170; on the Ohio Canals, 193. *See Index*, vols. 8, 9.
- WRIGHT, SILAS, on the late General Brown, 89; on the tariff bill, 91. *See Index*, vol. 9.
- WYNDHAM, SIR WILLIAM, *Extract from the Speech of*, 230.

## Y

- YANCY, JOEL, Representative from Kentucky, 576. *See Index*, vol. 9.
- Yasoo Purchase.*—*See Index*, vols. 5, 8, 9.
- Yea and Nays.*—Senate, on the claim of Maison Rouge, 236; on the Louisville and Portland Canal, 238; on the Chesapeake and Ohio Canal subscription, 247; on printing instructions to Panama Ministers, 255; on recompense to the heirs of Robert Fulton, 490; on the Louisville and Portland Canal, 490; on the removal of the Indians, 546; on the vetoed bills of Washington road, 574.
- House, on the tariff bill, 90, 93, 118; on the Chesapeake and Ohio Canal, 193; on Revolutionary officers, 171; on the bill abolishing the office of Major-General, 178; on the Delaware breakwater bill, 183; on the Ohio Canal land grant, 189; on the occupation of the Columbia River, 314; on the Southern exploring expedition, 328; on the Cumberland Road bill, 397; on printing the Panama documents, 403; on relief to the widows, &c., of officers of Hornet, 666; on Revolutionary pensions, 668.
- YOUNG, EBENEZER, Representative from Connecticut, 576.

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